

**NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION  
REVIEW COMMITTEE MEETING**

FRIDAY, NOVEMBER 19, 2010

VOLUME 3

**NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION  
REVIEW COMMITTEE MEETING**

8:30 a.m.

Friday, November 19, 2010

Yates Auditorium

Department of the Interior

Washington, DC

COMMITTEE MEMBERS PRESENT:

Ms. Rosita Worl, Chair

Ms. Sonya Atalay

Mr. Alan Goodman

Mr. Eric Hemenway

Mr. Adrian John

Mr. Dan Monroe

Mr. Mervin Wright, Jr., Acting Chair

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1       **WELCOME AND CALL TO ORDER**

2               MERVIN WRIGHT, JR.: We would like to begin to  
3       find our seats this morning at this time. We'd  
4       like to begin our third and final day of the Review  
5       Committee meeting here in Washington, DC.

6               I'd just like to say good morning to each and  
7       every one of you, and thank you for being here, in  
8       our Nation's capital. For those of you who may not  
9       know who I am, my name is Mervin Wright, and I'm  
10      with the Pyramid Lake Paiute Tribe in Nevada, and I  
11      will be chairing today's meeting. And at this  
12      time, I would like to turn it over to Mr. Adrian  
13      John, who I have already asked if he could give us  
14      an opening blessing.

15       **TRADITIONAL WELCOME**

16              (Not recorded by request.)

17              ADRIAN JOHN: (Native American prayer.)

18              MERVIN WRIGHT, JR.: Thank you, Adrian. At  
19      this time I'd like to turn it over to our DFO.

20              DAVID TARLER: Thank you, Mr. Chairman. At  
21      this time, I would like to have Sidney Hill address  
22      the Review Committee. Mr. Hill is Onondaga Chief  
23      and Tadodaho, or Spiritual Leader, of the  
24      Haudenosaunee Confederacy. Good morning, Mr. Hill.  
25              Chief Hill?

1 SIDNEY HILL: Good morning. Can you hear me?

2 DAVID TARLER: Yes, sir.

3 **INVITATION SPRING 2011 MEETING - CHIEF SIDNEY HILL**

4 SIDNEY HILL: Okay. (Native American  
5 language.) I am thankful that you are well. It's  
6 become my responsibility to pick up the work of my  
7 people. I would like to introduce myself. My name  
8 is Sid Hill. I hold the title of Tadodaho, one of  
9 the traditional leaders of the Six Nations  
10 Confederacy. I send greetings from the chiefs,  
11 clan mothers, male and female faith keepers, who  
12 keep our ceremonies going. I also send greetings  
13 from the people who have no titles and the children  
14 who are still crawling about on the floors.

15 To the NAGPRA Review Committee, I hope  
16 everyone there is well and in peace. We look  
17 forward to seeing you at the next NAGPRA meeting  
18 scheduled to be held in the territories of the  
19 Onondaga and the Haudenosaunee. This meeting will  
20 take place at the Syracuse University's College of  
21 Law on June 21<sup>st</sup> through June 22<sup>nd</sup> of 2011.

22 I hope your meeting today is fruitful, and we  
23 look forward to meeting you in the spring. (Native  
24 American language.) Thank you.

25 DAVID TARLER: Thank you very much, Chief Hill.

1 And we look forward to being in Syracuse in June of  
2 2011.

3 SIDNEY HILL: Thank you.

4 MERVIN WRIGHT, JR.: Okay. Go ahead, Sherry.

5 SHERRY HUTT: Thank you, Mr. Chairman. I just  
6 wanted to call your attention that there's a flyer  
7 that was available for all the attendees and all of  
8 the Review Committee members to save to remind you  
9 of the next location at the Syracuse University  
10 College of Law, with our gracious hosts, the  
11 Haudenosaunee Standing Committee, whose Chief Hill  
12 has just greeted you from the nations there. And  
13 this notice has already been published in the  
14 Federal Register. So I just - there's a flyer - a  
15 take-away so that people can be reminded. Thank  
16 you.

17 MERVIN WRIGHT, JR.: Okay. We have a  
18 presentation that was scheduled for Friday - I  
19 mean, Wednesday, but we're not going to do that?  
20 We're going to deal with the two items first and  
21 then the presentation?

22 DAVID TARLER: That's correct, Mr. Chair.

23 **DELIBERATION: SEALASKA CORPORATION & WRANGELL**

24 **COOPERATIVE ASSOCIATION - ALASKA STATE MUSEUMS**

25 **DISPUTE**

1           MERVIN WRIGHT, JR.: Okay. Okay, so the next  
2           item on our agenda is the deliberation of the  
3           Sealaska Corporation, Wrangell Cooperative  
4           Association - Alaska State Museums dispute. We  
5           heard the testimony on Wednesday from both parties,  
6           and we received the information in the binder as  
7           well as information on Wednesday. And in addition  
8           we received the testimony from representatives from  
9           Sealaska Corporation, the Wrangell Cooperative  
10          Association and the Alaska State Museums. And so  
11          at this time, I will open it up for the Review  
12          Committee discussion and deliberation.

13          Now, I'll ask our counsel here, you know, in  
14          this deliberation, and I know we discussed some of  
15          the dispute procedures yesterday, in the event that  
16          there are questions that are for the parties, are  
17          we going to proceed in the fashion where we are  
18          going to ask questions of the parties? I know  
19          through the dispute procedures that we discussed  
20          yesterday we really didn't want to get into some  
21          sense of a formal setting of this hearing, and we  
22          are not a court of law, and you know, as far as the  
23          rebuttals and back and forth, you know, I think  
24          with respect to the responsibility of the Review  
25          Committee and the questions that we may have for

1 the parties, that is what we would need to complete  
2 our deliberation for this dispute.

3 CARLA MATTIX: The current dispute resolution  
4 procedures don't specifically address the specifics  
5 of this. They're pretty broad. And in the past  
6 the committee has certainly asked questions when  
7 the parties are present after the presentations of  
8 the dispute. That has occurred routinely in the  
9 past. So my understanding is that parties are  
10 available for the Sealaska, Wrangell Indian  
11 Association - Alaska State Museums dispute this  
12 morning. I don't believe all the parties are  
13 available for the other dispute. I don't know if  
14 the University of Pennsylvania is available. So  
15 you may want to take that into consideration in  
16 determining whether you want to ask questions if  
17 both parties are not available to answer.

18 MERVIN WRIGHT, JR.: Okay. Having gone through  
19 the materials and hearing the testimony, I will  
20 again just further state that we'll open it up for  
21 the Review Committee discussion.

22 DAN MONROE: Mr. Chairman?

23 MERVIN WRIGHT, JR.: Yes, Dan.

24 DAN MONROE: While I do not feel in any way  
25 constrained or - one way or the other with respect

1 to a conflict of interest, in fact I worked at the  
2 Alaska State Museum from 1971 to 1984, and in order  
3 to preclude any concerns regarding conflict of  
4 interest I have decided I will recuse myself from  
5 this specific discussion and deliberation.

6 MERVIN WRIGHT, JR.: Thank you, Dan.

7 Are there any comments or questions or  
8 statements from the Review Committee in this  
9 deliberation?

10 Hearing none at this time, I believe then if –  
11 I know we discussed the amount of information that  
12 was provided, and what was provided on Wednesday  
13 with regard to the statements that were provided,  
14 the excerpts of the statements that were provided  
15 on the video and the – you know, having just  
16 received information on Wednesday, there was a  
17 discussion that having gone through this again last  
18 night, looking through the information, becoming  
19 familiar with the issue that, you know, right of  
20 possession and everything that supports both sides  
21 of this issue and their claim as to having a right  
22 of possession, recognizing the customary laws, the  
23 traditional laws of the Tlingit people, and going  
24 through all of the information, I guess at this  
25 time if there is no deliberation, is a motion – is

1 a motion in line at this point?

2 DAVID TARLER: A motion can be made at any  
3 time, Mr. Chairman. If you have decided that  
4 deliberation on this matter has ended, then you may  
5 or may not make a motion.

6 MERVIN WRIGHT, JR.: Sonya.

7 SONYA ATALAY: I just wanted to raise, I guess,  
8 a question that I'd like the Review Committee to  
9 discuss, and that's in reference to - I believe  
10 it's question number 2, yes, that we're supposed to  
11 be considering asking if the Alaska State Museums  
12 proved that more likely than not the consent of the  
13 conveyor to transfer possession of the hat to  
14 Alaska State Museums was voluntary. I'd like to  
15 just discuss that point. In considering that I've  
16 been thinking about something that a scholar named  
17 Ann Tweedie wrote in her book in 2002, "Drawing  
18 Back Culture: The Makah [Tribe's] Struggle for  
19 Repatriation," and in that she refers to when  
20 objects are separated from tribes and from  
21 communities, and she says, quote, "It was often  
22 overwhelming economic and social pressures that  
23 forced the alienation." That's on page 60 of her  
24 book.

25 And so I've just been considering and thinking

1 of this and in light of the other testimony which  
2 we've already received and the information that  
3 we've already received, particularly about  
4 missionaries and the forces of missionaries and  
5 those types of pressures on communities, I've been  
6 considering this in terms of something not being  
7 voluntary. And so I just wanted the Review  
8 Committee in terms of alienating or turning over  
9 this particular object, I wonder if we could  
10 discuss those issues because I didn't see  
11 specifically in the record anything directly about  
12 economic and social pressures of this sort. I  
13 mean, we know that that was happening broadly and  
14 there were some references to it but not directly.  
15 And so I just wondered if the Review Committee -  
16 other Review Committee members, what you felt about  
17 that in terms of things being voluntarily given up.

18 ALAN GOODMAN: Thank you, Sonya. And I think  
19 this is an important track to consider because of  
20 the economic circumstances of the time and  
21 inequalities and power relations. But as I read  
22 the concern is about the conveyor, and I'm not  
23 actually not so sure that it applies in this  
24 particular case. My - just to say my concern with  
25 this case is more to the question of was the

1 conveyor explicitly authorized to separate the hat  
2 from the tribe in question, and so that's - which  
3 is the further question. That's my major concern  
4 in this case.

5 ADRIAN JOHN: I agree with Alan. I think it  
6 seems like I'm not sure if there was the economic -  
7 I know that that's what happens, and maybe there  
8 was that feeling behind it there, but you know,  
9 it's not - like you said it's not in this  
10 documentation. But that, you know, the big picture  
11 is I don't think the - you know, William Paul felt  
12 like there was a - it was secure or something in  
13 the community, so he did at the time what he  
14 thought was appropriate. But I don't think it -  
15 like Alan said, the question is did he have that  
16 authority at that time, you know? Did he succeed  
17 in those clan duties to take care of that, so -

18 SONYA ATALAY: Well, in this case, the hat  
19 wasn't - he didn't sell the hat, so my point wasn't  
20 that he received money and that he sold it for that  
21 reason. I was referring more to the social  
22 pressures of the time. And we have - there is  
23 information out there. In fact, in the second  
24 dispute we saw information coming, quotes and  
25 excerpts, that are well known from the Alaska

1 Native Brotherhood, which we know that William  
2 Paul, Sr., belonged to, that there was extreme  
3 pressure coming from the Alaska Native Brotherhood  
4 that – and from missionaries and churches that  
5 these kind of practices be abolished. And I just  
6 think that certainly, even though he personally may  
7 not have been experiencing economic hardship, there  
8 were, in my mind, definite social pressures that he  
9 could not escape from. And whether he thought this  
10 was the right thing to do, I think what was  
11 influencing what he thought was the right thing to  
12 do were these kind of social pressures coming from  
13 missionaries, and we see this throughout the  
14 anthropological literature in fact.

15 And that because he was a civil rights leader,  
16 he wanted civil rights for his people, and that he  
17 in some ways at least my reading is that he felt  
18 that the only way to get those civil rights and be  
19 seen as civilized was to give up some of these –  
20 some of these items. At least, that's my  
21 understanding.

22 So I was referring more to kind of force, the  
23 social pressures that would have him make those  
24 considerations. But yes, I also agree that the –  
25 one of the primary considerations in this dispute

1 is whether the tribe or in this case the  
2 Teeyhittaan Clan gave permission, but I just did  
3 want to raise that earlier issue.

4 MERVIN WRIGHT, JR.: Well, to say that - you  
5 know, in looking at the presentation and, you know,  
6 certainly the Alaska State Museums is advocating  
7 the extraordinary status of Mr. Paul and  
8 acknowledging the duty and responsibility for an  
9 individual of such stature, you know, in the  
10 community. And we heard the testimony with regard  
11 to the clanship and the clan responsibilities,  
12 communal responsibilities over items. And I didn't  
13 see the social pressure of the late 1800s, the  
14 missionary attempts to abolish our ceremonies or  
15 customs. I do, however, acknowledge that during  
16 the sixties is when we began to see nationwide a  
17 move more toward civil rights protections and the  
18 protections of the fundamental rights of people  
19 across the country, and I do not believe that the  
20 missionary intents to assimilate, to convert to the  
21 point of abolishing our religious practices and  
22 freedoms, existed that late in the century.  
23 Recognizing also the role of a clan leader and  
24 knowing that the literature certainly describes the  
25 laws of the Tlingit people, it doesn't appear that

1 an individual can act outside of the bounds of the  
2 rules, the requirements, the laws of a community.

3 ERIC HEMENWAY: I'd like to make a comment,  
4 Mr. Chair. Before I lose my manners, I'd like to  
5 say thank you for all the people from Alaska to  
6 making the long trip. I know it's a very difficult  
7 and long journey, and I say thank you for that.  
8 And just from yesterday's or Wednesday's  
9 proceedings I could see the energy surrounding this  
10 item and how important it is to both parties, and I  
11 want to say thank you for that.

12 One issue I wanted to touch upon is the view  
13 that the Review Committee wouldn't see this in an  
14 unbiased light, and some of the material presented  
15 by the Alaska State Museums said that our views  
16 would be tainted because of Ms. Worl's involvement  
17 on the committee. And I would just like to state  
18 that Ms. Worl recused herself and that even Dan  
19 today recused himself, and I think that really  
20 shows the fairness of the committee, and if there's  
21 any conflict of interest that they remove  
22 themselves from the decision-making process. And I  
23 trust that my fellow Review Committee members would  
24 have an unbiased and independent mind in this  
25 matter and that nothing would sway them one way or

1 the other, that they – we all took in the totality  
2 of the evidence in the last three days and plus  
3 with the material that we see preceding this  
4 meeting, and we weighed all the evidence equally,  
5 and that we came to the decision on our own. Thank  
6 you.

7 MERVIN WRIGHT, JR.: Are there any other  
8 comments, issues of the dispute before us from the  
9 Review Committee?

10 If there's no further discussion at this time,  
11 I would entertain a motion with regard to the  
12 dispute here before us with regard to the right of  
13 possession, I believe, is the central issue, or is  
14 it just the matter of repatriation?

15 DAVID TARLER: Well, Mr. Chairman, there was a  
16 discussion yesterday about dispute procedures and  
17 it involved questions that had been formulated and  
18 presented to the parties to the dispute, as well as  
19 to the Review Committee. The Review Committee can  
20 take into account those questions. Having  
21 formulated them, I believe that those go to the  
22 issues of material fact between the parties to the  
23 dispute. But the Review Committee in this informal  
24 dispute setting can determine the questions that it  
25 wants to ask and answer. It's up to you.

1           **REVIEW COMMITTEE MOTION**

2           SONYA ATALAY: I'd like to make a motion that  
3           in the dispute between the Sealaska Corporation and  
4           Wrangell Cooperative Association and the Alaska  
5           State Museums that the committee move forward to  
6           consider question number 1 that was posed in our  
7           material at this time.

8           MERVIN WRIGHT, JR.: Okay. The question here  
9           is: Did Alaska State Museums prove that more likely  
10          than not the conveyor of the hat consented to  
11          transfer possession of the hat to Alaska State  
12          Museums? And I would say that, you know, based on  
13          the information that was provided and the form that  
14          was included in the materials, the conveyor - I  
15          mean, I'm not certain if the conveyor is the right  
16          word here because this was again one of the  
17          contentions in the dispute whether or not the hat  
18          was conveyed. So in that regard, did Mr. Paul have  
19          - you know, did he consent to transfer the  
20          possession of the hat to the Alaska State Museums?

21          ALAN GOODMAN: Mr. Chairman, is that a question  
22          you're putting to the committee to answer  
23          individually?

24          MERVIN WRIGHT, JR.: Yeah, I think in terms of  
25          the way the questions have been formatted and

1       structured for our deliberation and actually to  
2       hear the dispute, these questions will, I believe,  
3       get us to that point of right of possession and in  
4       conclusion when we get to that point of making that  
5       decision, knowing that that is the principle issue  
6       involved here with this dispute. So Alan.

7           ALAN GOODMAN: So let me answer that my — I  
8       think the preponderance of evidence, including  
9       written documentation, is in the affirmative.

10          DAVID TARLER: Mr. Chairman, may I ask for a  
11       point of clarification? My understanding is that a  
12       motion was made to discuss the question, and I  
13       don't know if there has been a decision as to  
14       whether to discuss that question or not to discuss  
15       that question.

16          MERVIN WRIGHT, JR.: Right. I think the —  
17       maybe I heard it incorrectly but I thought it was  
18       to move forward to question 1, but if that was a  
19       motion to consider question 1, then I guess —

20          SONYA ATALAY: As a point of clarity, yes, my  
21       motion was to move forward to consider — and what I  
22       meant by consider was to either have discussion if  
23       there is discussion or if the committee feels  
24       comfortable to make a vote on question 1.

25          MERVIN WRIGHT, JR.: Okay. So given that that

1 was a motion, is there a second?

2 ALAN GOODMAN: Second.

3 MERVIN WRIGHT, JR.: Okay. All in favor,  
4 signify by saying aye.

5 SONYA ATALAY: Aye.

6 ERIC HEMENWAY: Aye

7 ADRIAN JOHN: Aye.

8 ALAN GOODMAN: Could you restate the question  
9 again?

10 SONYA ATALAY: Sure. I make a motion that the  
11 committee move forward to consider question 1 in  
12 the case, the dispute between Sealaska Corporation  
13 and Wrangell Cooperative Association and the Alaska  
14 State Museums.

15 ALAN GOODMAN: Aye.

16 MERVIN WRIGHT, JR.: Those opposed same sign.  
17 Okay. The motion carries.

18 CARLA MATTIX: It might be helpful for the  
19 audience to actually read the question number 1.

20 MERVIN WRIGHT, JR.: Okay. Question number 1,  
21 in response to the request of Sealaska Corporation  
22 and the Wrangell Cooperative Association for the  
23 repatriation of the *Yeil Aan Kaawu Naa s'aaxw* –  
24 forgive me for mispronouncing, "Leader of All  
25 Ravens Hat," identified by Alaska State Museums as

1 catalogue number – I believe that's II-B-809, did  
2 Alaska State Museums prove that more likely than  
3 not the conveyor of the hat consented to transfer  
4 possession of the hat to Alaska State Museums. The  
5 term "possession" means having physical custody of  
6 the hat with a sufficient legal interest such that  
7 Alaska State Museums could lawfully treat the hat  
8 as part of its collection for purposes of NAGPRA.  
9 Generally a museum would not be considered to have  
10 possession of a cultural item on loan.

11 And I would just say that in looking at that  
12 term "loan" and going through the materials and  
13 seeing – reading the term "donation," reading the  
14 term "gift," I didn't see "loan" in the materials,  
15 and you know, "donation" and "gift" could be  
16 synonymous to each other. Being that as it is, I  
17 believe that's what, you know, one of the issues  
18 that is involved here was whether it was a loan or  
19 a gift, and what I read and what I've seen, even  
20 with the Alaska State Museums, it was a donation.

21 So are there – is there any further discussion  
22 with regard to question number 1?

23 If there's not, I'll entertain a motion on  
24 this determination as to whether – did Alaska State  
25 Museums prove that more likely than not the

1 conveyor of the hat consented to transfer  
2 possession of the hat to the Alaska State Museums?

3 **REVIEW COMMITTEE MOTION**

4 ALAN GOODMAN: If that's a motion, I'll second  
5 it -

6 MERVIN WRIGHT, JR.: Oh, I can't -

7 ALAN GOODMAN: Let me make the motion then.

8 MERVIN WRIGHT, JR.: That they did.

9 ALAN GOODMAN: That they did.

10 MERVIN WRIGHT, JR.: Okay, is there a second?

11 SONYA ATALAY: I'm sorry. Can you repeat the  
12 motion again? I want clarity on that.

13 ALAN GOODMAN: The motion is that the  
14 preponderance of evidence is that the Alaska State  
15 Museums more likely than not - that rather more  
16 likely than not the conveyor of the hat consented  
17 to transfer possession of the hat to the Alaska  
18 State Museums.

19 SONYA ATALAY: I second.

20 MERVIN WRIGHT, JR.: Okay. Motion has been  
21 made and seconded stating that more likely than not  
22 the conveyor of the hat consented to transfer  
23 possession of the hat to Alaska State Museums. All  
24 in favor signify by saying aye.

25 SONYA ATALAY: Aye.

1 ALAN GOODMAN: Aye.

2 ADRIAN JOHN: Aye.

3 MERVIN WRIGHT, JR.: Those opposed same sign.  
4 Abstentions?

5 Okay.

6 DAVID TARLER: Mr. Chairman, I just want to  
7 clarify and inform the Review Committee and the  
8 public that the process that you're going through  
9 in deliberation and making findings of fact and  
10 recommendations culminates in the publication of  
11 your findings of fact and recommendations in the  
12 Federal Register under the name of the Chair, and  
13 that the language that you use in the motions and  
14 your findings of fact and recommendations are as  
15 you are presenting them, and my understanding with  
16 respect to this motion and the decision is that in  
17 response to question 1, as presented to you, that  
18 the answer is yes. Is that correct?

19 MERVIN WRIGHT, JR.: Yes, it is.

20 DAVID TARLER: Thank you.

21 MERVIN WRIGHT, JR.: Okay. We'll move to the  
22 question 2. It states here, If the answer to  
23 question 1 is yes, did the Alaska State Museums  
24 prove that more likely than not the consent of the  
25 conveyor to transfer possession of the hat to

1 Alaska State Museums was voluntary? So that's the  
2 second question.

3 DAVID TARLER: And do I understand that you  
4 wish to consider that question?

5 MERVIN WRIGHT, JR.: Yes.

6 **REVIEW COMMITTEE MOTION**

7 SONYA ATALAY: I move that we, as the Review  
8 Committee, make a vote in the dispute between  
9 Sealaska Corporation and Wrangell Cooperative with  
10 the Alaska State Museums regarding question number  
11 2.

12 MERVIN WRIGHT, JR.: Is there a second?

13 ALAN GOODMAN: Second.

14 MERVIN WRIGHT, JR.: There is a motion made and  
15 seconded that we move to consider question 2 as  
16 part of this dispute proceeding. All in favor  
17 signify by saying aye.

18 SONYA ATALAY: Aye.

19 ALAN GOODMAN: Aye.

20 ERIC HEMENWAY: Aye.

21 ADRIAN JOHN: Aye.

22 MERVIN WRIGHT, JR.: Those opposed, same sign.  
23 Abstentions, same sign.

24 Okay. The motion carries. So now we'll  
25 entertain the motion on the question, second

1 question here, that the consent of the conveyor to  
2 transfer possession of the hat to Alaska State  
3 Museums was voluntary.

4 SONYA ATALAY: I would like to – I'm prepared  
5 to vote on this if there's no other discussion. I  
6 would like to put in a vote in response to this  
7 question, did Alaska State Museums prove that more  
8 likely than not the consent of the conveyor to  
9 transfer possession of the hat to the Alaska State  
10 Museums was voluntary, I would like to vote no.

11 MERVIN WRIGHT, JR.: Okay. So I think in  
12 responding to our decision as a committee, we would  
13 need a motion to I guess state that the answer to  
14 question 2 based on the evidence the committee has  
15 reviewed is that no, it was not voluntary.

16 SONYA ATALAY: I would like some clarification.  
17 Do we need to make a motion in this regard or can  
18 we vote as a committee in this regard? Can someone  
19 advise on the proper procedure for that?

20 DAVID TARLER: You would move to vote on the  
21 motion and then vote. And do I understand that  
22 your deliberation is concluded with respect to this  
23 motion for discussion?

24 MERVIN WRIGHT, JR.: Eric, do you want to add  
25 anything?

1 ERIC HEMENWAY: No.

2 MERVIN WRIGHT, JR.: Alan.

3 ALAN GOODMAN: Mr. DFO, my understanding is  
4 that the motion has not been formally put forward  
5 yet just -- and we're --

6 SONYA ATALAY: I made a motion for us to vote  
7 and it was seconded and carried, as I understand  
8 it.

9 MERVIN WRIGHT, JR.: Correct. And so in moving  
10 this forward to a vote, now we would need the vote  
11 in the form of a motion that is what we would use  
12 to decide on the motion. So as I framed the motion  
13 was that we -- you know, the motion would be that,  
14 no, the Nevada -- excuse me, the Alaska State  
15 Museums more likely than not received the transfer  
16 of possession of the hat that it was not voluntary.

17 DAVID TARLER: So my understanding is that you  
18 are now ready to vote on that motion in answer to  
19 question 2. And just for clarification for the  
20 record, if you would wish to call on each of the  
21 voting members that would make the record much  
22 clearer.

23 MERVIN WRIGHT, JR.: All right. So at this  
24 time, I'll entertain a motion on question 2, the  
25 motion being that it was not voluntary.

1 ALAN GOODMAN: So —

2 CARLA MATTIX: Hold on, just a second.

3 DAVID TARLER: My understanding is that you are  
4 addressing question number 2, and the answer to  
5 question number 2 will either be yes or no.

6 MERVIN WRIGHT, JR.: Okay.

7 DAVID TARLER: And that the question asks, if  
8 the answer to question number 1 is yes, and you  
9 have decided that it is yes, did Alaska State  
10 Museums prove that more likely than not the consent  
11 of the conveyor to transfer possession of the hat  
12 to Alaska State Museums was voluntary.

13 MERVIN WRIGHT, JR.: Okay. So we'll go down  
14 the line and I'll ask each committee member their  
15 response to question 2. So we'll start to my  
16 right, Mr. John.

17 ADRIAN JOHN: No.

18 ERIC HEMENWAY: For the record, this is Eric  
19 Hemenway, no.

20 SONYA ATALAY: This is Sonya Atalay, no.

21 ALAN GOODMAN: Although the idea of voluntary  
22 is very vexed, I am going to vote and say it was —  
23 yes, it was voluntary.

24 MERVIN WRIGHT, JR.: Okay. Let the record show  
25 that the vote here is three to one, and so — I need

1 to vote?

2 DAVID TARLER: Or abstain, Mr. Chairman.

3 MERVIN WRIGHT, JR.: Let the record stand, you  
4 know, with the vote of the Review Committee at this  
5 point, and I'll abstain.

6 Okay. Now we'll move to question 3.

7 DAVID TARLER: Mr. Chairman?

8 MERVIN WRIGHT, JR.: Yes.

9 DAVID TARLER: If I might, I would like to read  
10 the definition of right of possession.

11 MERVIN WRIGHT, JR.: Certainly.

12 DAVID TARLER: The definition of right of  
13 possession with respect to the item in question is  
14 at 43 CFR 10.10 (a) (2), For purposes of this  
15 section, which deals with requests for repatriation  
16 of unassociated funerary objects, sacred objects,  
17 and objects of cultural patrimony, right of  
18 possession means possession obtained with the  
19 voluntary consent of an individual or group that  
20 had authority of alienation. The original  
21 acquisition of a Native American unassociated  
22 funerary object, sacred object, or object of  
23 cultural patrimony from an Indian tribe or Native  
24 Hawaiian organization with the voluntary consent of  
25 an individual or group with authority to alienate

1       such object is deemed to give right of possession  
2       to that object. If in answer to question number 2,  
3       the answer is no, that transfer was not voluntary,  
4       then that requirement in order to show right of  
5       possession is absent and we do not need to proceed  
6       any further with the questions.

7               MERVIN WRIGHT, JR.: Thank you. Okay. Having  
8       that decision made by the committee, that's -  
9       basically we have concluded -

10              SONYA ATALAY: I have a question -

11              MERVIN WRIGHT, JR.: Yes.

12              SONYA ATALAY: - excuse me, Mr. Chair, if I  
13       might.

14              MERVIN WRIGHT, JR.: Okay.

15              SONYA ATALAY: I wonder - I know that we aren't  
16       required to move forward but I wonder if we might  
17       consider discussing these other questions, although  
18       we're not required to do so, might we consider  
19       those - a discussion of those as a committee?

20              ERIC HEMENWAY: I have a real quick comment  
21       just to kind of help clarify things, I'm getting a  
22       little bit confused. Do we need to make a motion  
23       to state whether or not the Alaska State Museums  
24       has right of possession? Or had we come to that  
25       determination?

1           DAVID TARLER: The reason that I read the  
2 definition of right of possession is there are  
3 elements that need to be shown in order to show by  
4 a preponderance of the evidence that a museum or  
5 Federal agency has the right of possession to an  
6 unassociated funerary object, sacred object or  
7 object of cultural patrimony. If one of those  
8 elements is not satisfied, then right of possession  
9 has not been shown.

10           MERVIN WRIGHT, JR.: And that is what we just  
11 decided.

12           DAVID TARLER: That's correct, Mr. Chairman.

13           MERVIN WRIGHT, JR.: So the question that  
14 Ms. Atalay is asking is if we wanted to go further  
15 and discuss these other two questions, and I don't  
16 know if it's really necessary. (Portion of comment  
17 inaudible.)

18           DAVID TARLER: You may discuss this - these  
19 matters, and you may make the record with respect  
20 to your deliberations on this dispute.

21           MERVIN WRIGHT, JR.: Sonya.

22           SONYA ATALAY: I just would like to ask the  
23 other committee members if there is an interest in  
24 discussing these points. I know for myself -

25           DAVID TARLER: And excuse me.

1               SONYA ATALAY: Yes.

2               DAVID TARLER: I apologize for interrupting,  
3 but the Review Committee may make findings of fact  
4 and may make recommendations with respect to a  
5 dispute. You have just made findings of fact. You  
6 may also wish to make recommendations with respect  
7 to the dispute.

8               SONYA ATALAY: Thank you, Mr. Tarler.

9               ALAN GOODMAN: Would we be allowed to make  
10 further findings of fact, even though right of  
11 possession has already been determined?

12              CARLA MATTIX: Yes, that would be fine.

13              ALAN GOODMAN: So in that light, I wonder if  
14 the Review Committee would like to discuss whether  
15 or not the museum – the hat was – the Indian tribe  
16 explicitly authorized the conveyor of the hat to  
17 separate the hat from the tribe?

18              SONYA ATALAY: Yes, I'd like to comment on  
19 that. Thank you, Mr. Chair. I feel that this was  
20 definitely a major factor in this dispute. And I  
21 feel that from all of the evidence that was both  
22 written and that was presented to us verbally it  
23 was quite clear that this hat is *at.óowu*, and that  
24 it – in being *at.óowu*, as it was described and  
25 there was a lot of scientific literature that

1 describes what *at.óowu* is, and we heard from  
2 cultural experts as well who came before us to  
3 speak and present their interpretations, that in my  
4 mind it's explicit that there wasn't an authority  
5 of the conveyor to separate the hat from the tribe,  
6 that as *at.óowu* the hat in fact cannot be separated  
7 from the clan. That's my understanding so – and  
8 finding of fact for that, my understanding is no,  
9 that it wasn't explicitly authorized to be  
10 separated because it could not be separated by the  
11 individual.

12 **REVIEW COMMITTEE MOTION**

13 ALAN GOODMAN: Could I make a motion? And I'm  
14 going to do this in the negative, if it's okay.  
15 That the Alaska State Museums did not prove that  
16 more likely than not the Indian tribe culturally  
17 affiliated with the hat here represented by  
18 Sealaska Corporation and Wrangell Cooperative  
19 Association explicitly authorized the conveyor of  
20 the hat to separate the hat from the tribe.

21 MERVIN WRIGHT, JR.: Is there a second?

22 SONYA ATALAY: I second.

23 MERVIN WRIGHT, JR.: Is there further  
24 discussion?

25 I would just like to make a comment that, you

1 know, in my review of the information I was seeking  
2 the — that information. I was looking for what it  
3 was that may have proven by signature, by some  
4 indication that that authorization existed, and I  
5 could not locate it.

6 So if there is no further discussion, I guess  
7 all those in favor signify by saying aye.

8 ALAN GOODMAN: Aye.

9 SONYA ATALAY: Aye.

10 ERIC HEMENWAY: Aye.

11 ADRIAN JOHN: Aye.

12 MERVIN WRIGHT, JR.: Those opposed, same sign.

13 Abstentions?

14 Okay. The motion carries.

15 DAVID TARLER: Mr. Chairman, did you vote on  
16 this question? Did you vote yourself?

17 MERVIN WRIGHT, JR.: Did I vote? No, I did not  
18 vote. I will abstain.

19 DAVID TARLER: You're abstaining.

20 **REVIEW COMMITTEE MOTION**

21 SONYA ATALAY: I'd like to make a motion that  
22 the committee move forward to make findings of fact  
23 in question number 4 posed to us, which is: Did  
24 Alaska State Museums prove that more likely than  
25 not the Indian Tribe culturally affiliated with the

1       hat intended to give the conveyor of the hat  
2       authority to separate the hat from the tribe?

3               MERVIN WRIGHT, JR.: Okay. With that, I guess  
4       we'll treat it as we did number 2, going down and  
5       asking each member their response to that. So  
6       we'll start to my right with Mr. John.

7               ADRIAN JOHN: No.

8               MERVIN WRIGHT, JR.: Mr. Hemenway.

9               ERIC HEMENWAY: No.

10              MERVIN WRIGHT, JR.: Ms. Atalay.

11              SONYA ATALAY: No.

12              MERVIN WRIGHT, JR.: Mr. Goodman.

13              ALAN GOODMAN: No.

14              MERVIN WRIGHT, JR.: And I will abstain, and  
15       let the record show that the Review Committee  
16       unanimously determined that the authority did not  
17       exist to separate the hat from the tribe.

18              DAVID TARLER: Mr. Chairman, I would like a  
19       point of clarification, after discussion with  
20       counsel and with our transcriptionist, Lesa  
21       Koscielski, with respect to the findings of fact as  
22       to question number 1, could you please for the  
23       record state what the vote was on that question?

24              MERVIN WRIGHT, JR.: The vote, you mean by  
25       number? The number was three to one - three yes,

1 right?

2 DAVID TARLER: Yes, question number 1.

3 MERVIN WRIGHT, JR.: Question number 1 - okay.

4 I think this was unanimous.

5 DAVID TARLER: So this is five yes, zero no,  
6 and zero abstentions?

7 MERVIN WRIGHT, JR.: I think I abstained. I  
8 think it was four-zero.

9 DAVID TARLER: Four yes -

10 MERVIN WRIGHT, JR.: No, no -

11 SONYA ATALAY: Could we - are we able to  
12 clarify that, please, for the record, each person  
13 individually, just to have clarity on that point  
14 please.

15 DAVID TARLER: That would be - that would be -

16 SONYA ATALAY: If we might be allowed to do  
17 that, Mr. Chair.

18 MERVIN WRIGHT, JR.: Yeah, all I noted here was  
19 that the answer to question 1 was yes, so there was  
20 an affirmative vote, but I - if it needs to be -

21 DAVID TARLER: Yes, Mr. Chairman, we would  
22 appreciate that.

23 MERVIN WRIGHT, JR.: Okay. All right, we'll  
24 start then down to my right with Mr. John.

25 ADRIAN JOHN: Yes.

1 ERIC HEMENWAY: Yes.

2 SONYA ATALAY: Yes.

3 ALAN GOODMAN: Yes.

4 MERVIN WRIGHT, JR.: Yes.

5 DAVID TARLER: So the vote is five yes, zero  
6 no, zero abstentions.

7 MERVIN WRIGHT, JR.: Correct.

8 Okay. So we now have concluded the  
9 deliberation with regard to Sealaska Corporation  
10 and Wrangell Cooperative Association and Alaska  
11 State Museums dispute. And so we will move on –

12 DAVID TARLER: Mr. Chairman?

13 MERVIN WRIGHT, JR.: Yes, sir.

14 DAVID TARLER: May I make a request that we  
15 take a very short five-minute break?

16 MERVIN WRIGHT, JR.: We'll take a five-minute  
17 break at this time.

18 DAVID TARLER: Thank you.

19 MERVIN WRIGHT, JR.: Thank you.

20 **BREAK**

21 MERVIN WRIGHT, JR.: If you are in earshot of  
22 my voice, make your way back up to the stage.

23 ERIC HEMENWAY: Chairman Wright?

24 MERVIN WRIGHT, JR.: Yes.

25 **DELIBERATION: SEALASKA CORPORATION & WRANGELL**

1           **COOPERATIVE ASSOCIATION – ALASKA STATE MUSEUMS**

2           **DISPUTE**

3           ERIC HEMENWAY: I'd like to make a comment  
4           before we proceed on to the next dispute. And  
5           that's just for the record to clarify that it has  
6           been determined that the Alaska State Museums does  
7           not have right of possession for the Leader of All  
8           Ravens Hat.

9           MERVIN WRIGHT, JR.: Thank you.

10          We're going to move on the agenda to the next  
11          item –

12          CARLA MATTIX: Just a minute –

13          STEPHEN SIMPSON: Mr. Chair, you have a pending  
14          motion on the floor, I think.

15          CARLA MATTIX: Was that actually a motion?

16          MERVIN WRIGHT, JR.: Was that a motion? I  
17          thought that was just a comment.

18          ERIC HEMENWAY: Excuse me, does it need to be?  
19          Does it need to be a motion?

20          CARLA MATTIX: Anything that you would like to  
21          have appear as your findings or recommendations in  
22          the Federal Register, we are not going to interpret  
23          what that may or may not be, so you must be very  
24          clear today about what is going to go in there or  
25          it will not go in the Federal Register.

1           STEPHEN SIMPSON: So you want — so yes, you  
2           want to — if that is the finding of the committee,  
3           you want to be clear that the entire committee  
4           finds that — finds the conclusion on right of  
5           possession, and the best way to do that is through  
6           a motion, seconded and voted on.

7           **REVIEW COMMITTEE MOTION**

8           ERIC HEMENWAY: I would like to make a motion  
9           that the Review Committee has found that the right  
10          of possession does not rest in the Alaska State  
11          Museums for the Leader of All Ravens Hat.

12          SONYA ATALAY: Second.

13          MERVIN WRIGHT, JR.: Okay. There has been a  
14          motion made and seconded regarding the right of  
15          possession, and so I'll ask those in favor signify  
16          by saying aye — oh, each one? Okay. I'll start to  
17          my right, Mr. John.

18          ADRIAN JOHN: Aye.

19          ERIC HEMENWAY: Aye.

20          SONYA ATALAY: This is Sonya Atalay, and I vote  
21          yes that the State Museum of Alaska does not have  
22          right of possession of the Leader of All Ravens  
23          Hat.

24          ALAN GOODMAN: Alan Goodman, yes.

25          MERVIN WRIGHT, JR.: And I'll vote yes, Mervin

1 Wright.

2 **DELIBERATION: HOONAH INDIAN ASSOCIATION & HUNA**  
3 **TOTEM CORPORATION – UNIVERSITY OF PENNSYLVANIA**  
4 **MUSEUM OF ARCHAEOLOGY AND ANTHROPOLOGY DISPUTE**

5 MERVIN WRIGHT, JR.: Okay. Now we can move on  
6 to the next item on the agenda, which is the  
7 deliberation, Hoonah Indian Association & Huna  
8 Totem Corporation – University of Pennsylvania  
9 Museum of Archaeology and Anthropology Dispute.

10 Again, in our binders we were provided a  
11 series of questions, and we heard the testimony on  
12 Wednesday from the parties in this dispute. And  
13 part one – there are two parts to this dispute.  
14 Part one is the issues of fact regarding the  
15 identity of the items. Question number 1 here  
16 states, in the written request to the University of  
17 Pennsylvania Museum of Archaeology and Anthropology  
18 for the repatriation of a Shaman's Drum, Old-Man-  
19 of-War Box Drum, identified by the museum as  
20 catalogue number 6828, did the Hoonah Indian  
21 Association and the Huna Totem Corporation show  
22 that, more likely than not, the item in question  
23 was a sacred object, as this term is defined at 25  
24 U.S.C. 3001 (3) (C) and 43 CFR 10.2 (d) (3)?

25 DAN MONROE: Mr. Chairman?

1 MERVIN WRIGHT, JR.: Yes.

2 DAN MONROE: With all deference and respect for  
3 the very specific and technical questions posed to  
4 the committee in this case, there is a tradition  
5 and a history on the part of this committee to have  
6 open discussion of the issues involved, and I  
7 believe that's very valuable because it provides  
8 the public with an opportunity to understand very  
9 specifically the thoughts and considerations of  
10 each individual member, as well as the  
11 deliberations and decisions of the committee as a  
12 whole. And so with your permission, I would like  
13 the opportunity to make a general statement  
14 regarding this case, and then we could move into  
15 the very specific questions if we wish, but I would  
16 also encourage my fellow committee members to  
17 likewise in one way or another consider an open  
18 discussion of the issues.

19 For my part, I recognize as all of us do that  
20 this is a complex case. We understand that every  
21 member of the Review Committee must individually  
22 weigh the information presented to reach  
23 conclusions, as must the committee as a whole, and  
24 must weigh all factors presented as evidence in the  
25 matter. The Hoonah Indian Association and

1 T'akdeintaan Clan have sought return of the Snail  
2 House Collection from UPM for more than 14 years.

3 All parties in this dispute in my view have  
4 invested tremendous time and care in preparation of  
5 their positions. HIA and T'akdeintaan have  
6 provided extensive information on traditional  
7 Tlingit culture and on the specific objects  
8 requested for repatriation. The UPM has likewise  
9 invested a great deal of time and energy evaluating  
10 the information associated with the HIA-  
11 T'akdeintaan repatriation request and drawn on a  
12 wide range of information sources in reaching their  
13 conclusions. UPM has also offered to repatriate  
14 eight of the objects requested and made generous  
15 offers to assist HIA with fundraising to transfer  
16 physical location of the Snail House Collection to  
17 a mutually agreed-upon Alaska location, that is the  
18 remaining objects that they do not plan on their  
19 own volition to repatriate, and to carry out other  
20 collaborative activities.

21 Consultation in this case has been extensive,  
22 and although HIA and T'akdeintaan and UPM do not  
23 agree, they have fulfilled the requirements of  
24 NAGPRA consultation in full good faith. The UPM  
25 offer to repatriate eight objects it considers

1 objects of cultural patrimony and/or sacred  
2 objects, although it believes it has a right of  
3 possession to the works, includes the following: NA  
4 6828, 6829, 6831, 6832, 6835, 6836, 6345, and 6862.

5 UPM has declined to repatriate the remaining  
6 37 objects requested by HIA and T'akdeintaan. UPM  
7 does not believe these objects are sacred objects  
8 or objects of cultural patrimony, and it believes  
9 it has a right of possession to these objects based  
10 on their purchase by Louis Shotridge in 1924. HIA  
11 and T'akdeintaan Clan argue that all the objects  
12 acquired as the Snail House Collection are objects  
13 of cultural patrimony and sacred objects as defined  
14 by NAGPRA, and they consider all these works to be  
15 *at.óowu*.

16 UPM argues that it is qualified to determine  
17 what objects are central to the clan's cultural  
18 identity and what objects are not central to the  
19 clan's cultural identity. It primarily relies on  
20 determinations of primary and secondary crests in  
21 making its judgments in this regard. NAGPRA does  
22 not reference any provision regarding degrees of  
23 centrality with respect to shared identity in the  
24 definition of cultural patrimony. And while I  
25 respect the rigor with which UPM sought to

1 determine whether or not objects in the Snail House  
2 Collection qualify as objects of cultural  
3 patrimony, I do not believe their methodology in  
4 determining cultural patrimony based on their  
5 assessments of degrees of centrality to the  
6 identity of the T'akdeintaan Clan aligns with the  
7 definition of cultural patrimony in the law. To  
8 argue that there are degrees of centrality of  
9 identity and that some objects are secondary in  
10 importance in this regard is to argue that all  
11 objects under consideration in this matter are to  
12 some extent central to the identity of the  
13 T'akdeintaan Clan whether they're primary or  
14 secondary in importance. In my view, if any of the  
15 objects under condition – consideration are central  
16 to the identity of the T'akdeintaan Clan regardless  
17 of degree of perceived centrality then they are  
18 objects of cultural patrimony. I would except the  
19 Marmot Fur work, which was not part of the Snail  
20 House Collection acquired by Louis Shotridge as a  
21 part of that individual acquisition. Its status is  
22 not entirely clear to me.

23 Regardless of the interpretation of UPM's  
24 argument regarding primary and secondary importance  
25 of objects, I believe based on a preponderance of

1 the evidence presented by all parties that the  
2 objects included in the Snail House Collection,  
3 possibly excepting the Marmot Fur object I  
4 referenced, were objects of cultural patrimony as  
5 defined by NAGPRA. They were all held by Archie  
6 White as *Yetsadi* or Caretaker of the T'akdeintaan  
7 Clan, and based on the preponderance of the  
8 evidence they were more likely than not clan-owned  
9 objects. Likewise, based on preponderance of the  
10 evidence, I believe the objects in the Snail House  
11 Collection were more likely than not *at.óowu*.  
12 Again, I'm not — I am less clear about the status  
13 of the Marmot Fur piece.

14 Regarding right of possession, I believe that  
15 the preponderance of evidence supports the claim  
16 that traditional Tlingit cultural property law  
17 precluded alienation of clan-owned property absent  
18 the approval of members of the clan. Though it's  
19 indisputable that some clan caretakers sold clan-  
20 owned property, this fact does not negate the  
21 existence of a clearly defined traditional Tlingit  
22 property law regarding clan-owned property in  
23 specific. Traditional Tlingit law recognized that  
24 individuals selected as caretakers of the clan did  
25 not have authority to alienate clan-owned property

1 absent the approval of the clan. That some  
2 caretakers of some clans broke this law does not  
3 negate it. None of the traditional exceptions to  
4 this law apply to the Snail House Collection or its  
5 sale to Louis Shotridge.

6 While there are suppositions one may make  
7 regarding the seller of the Snail House Collection,  
8 no one knows for certain who sold the collection  
9 and the core issue is determination or lack thereof  
10 that the members of the T'akdeintaan Clan approved  
11 the sale of the Snail House Collection. UPM has  
12 provided no evidence that members of the  
13 T'akdeintaan Clan approved sale of the Snail House  
14 Collection. The argument that traditional clan  
15 property law broke down for some unspecified period  
16 of time, including 1924, and then therefore  
17 permitted some unknown person to sell the Snail  
18 House Collection is not, in my view, compelling.

19 While no traditional Tlingit clan property law  
20 – while traditional Tlingit clan property law was  
21 stressed and violated on several occasions, there  
22 is no evidence that traditional law in this regard  
23 was ever abandoned altogether. Louis Shotridge and  
24 many others documented the ongoing importance of  
25 clan-owned material, and it is indisputable that

1       such material is vitally important today.  
2       Traditional Tlingit clan-owned property law did not  
3       cease to exist in 1924 or any other year. Not  
4       every Tlingit clan caretaker sold clan property in  
5       1924 or any other year. Likewise, no widely  
6       agreed-upon documented change in traditional  
7       Tlingit clan-owned property law took place in 1924  
8       or any other year.

9               Evidence in this dispute is necessarily  
10       incomplete despite the best efforts of both  
11       parties. The evidence that exists may clearly be  
12       interpreted in different ways, otherwise there  
13       would not be a dispute and we would not be  
14       discussing this matter today. In my view, the  
15       preponderance of the evidence supports the HIS and  
16       T'akdeintaan claim that the Snail House Collection  
17       consists of objects of cultural patrimony and  
18       sacred objects and the UPM has not demonstrated a  
19       right of possession to these objects because it has  
20       not documented or proven that members of the  
21       T'akdeintaan Clan approved the sale of these  
22       objects to Louis Shotridge in 1924.

23              I'd like to conclude by expressing my deep  
24       thanks to all the parties involved in this dispute  
25       for their extraordinary efforts to provide

1 information, to share in consultation, and to come  
2 forward in good faith to present their respective  
3 positions.

4 MERVIN WRIGHT, JR.: Thank you, Dan.

5 Were there any more comments from the  
6 committee?

7 ERIC HEMENWAY: I'd like to make a comment,  
8 Mr. Chair. In reviewing this case, it was a little  
9 bit concerning that so much emphasis was put on the  
10 academic literature and determining cultural – or  
11 if the objects met the definition of cultural  
12 patrimony. It seemed that the University of  
13 Pennsylvania stressed over and over again that the  
14 anthropological literature was the main determining  
15 factor in making their determination and not  
16 weighing in the other lines of evidence, which are  
17 just as equally credible under NAGPRA, such as oral  
18 tradition and traditional knowledge. And it seems  
19 that many other museums that we deal with also hold  
20 this very high standard that if we don't meet the  
21 academic high measures that they won't return the  
22 claim. And it's unfortunate that we have to come  
23 to a dispute to have the tribes' traditional  
24 knowledge be realized and have them travel this far  
25 to actually show how these objects are sacred and

1 central to their importance. And that concludes my  
2 comment. Thank you.

3 MERVIN WRIGHT, JR.: Sonya.

4 SONYA ATALAY: Yeah, I just wanted to comment –  
5 well, first of all on Wednesday we had a  
6 discussion, particularly I was concerned and raised  
7 the issues that someone from this committee, the  
8 Chairwoman who had recused herself then during this  
9 – the material that we heard came up and made  
10 comments. And I just want to say that I have made  
11 my determinations and decisions about this case  
12 with – by removing those comments from  
13 consideration. What I used to consider this case  
14 was what was presented by both UPenn Museum in  
15 their presentation and in the written material that  
16 they provided us with, and from those from the clan  
17 and from the tribe who came forward, but I did not  
18 include in my decision making Ms. Worl's comments.

19 With that being said, I'd like to just say  
20 that I agree with my colleague Dan Monroe that in  
21 fact these materials listed here, the 39 materials  
22 do include NAGPRA objects and are objects of  
23 cultural patrimony and sacred objects. I did not  
24 see – although I do understand very clearly the  
25 points made by UPenn Museum that there are – some

1        objects may be in fact more utilized and more  
2        central than others, under NAGPRA and under the way  
3        the law is written I think that we can't consider  
4        levels of centrality. If things are central to a  
5        tribe's ceremonies or to their practice, their  
6        traditional religious and spiritual practices, then  
7        they fall under the category of NAGPRA objects.  
8        And in this case, I feel that the tribes did prove  
9        – the preponderance of the evidence proves that  
10       these are NAGPRA objects.

11                I also want to state that I agree with my  
12       colleague Eric Hemenway in his comments about  
13       whether the – how determinations were made in this  
14       case, and I understand very well and appreciate  
15       coming from the academic world myself how  
16       committees within the academy make these kind of  
17       determinations and they spend a lot of time and  
18       effort, faculty members who are very busy serve on  
19       these committees and do their very best in order to  
20       make determinations like this. And I think what  
21       they do is they rely – and we heard, in fact, from  
22       what was presented to us from the University of  
23       Pennsylvania Museum, that they rely extensively on  
24       the academic literature that's in front of them.  
25       And I understand that. It's a very important line

1 of evidence.

2 But as my colleague pointed out, there are  
3 other equally admissible and important lines of  
4 evidence under NAGPRA law and statute, which talk  
5 about oral traditions. And I think that from what  
6 I understood and the questions that I asked to the  
7 University of Pennsylvania Museum in terms of how  
8 they made these determinations from that committee  
9 that they put together, I was not convinced that  
10 they had included in the way that they needed to  
11 information from traditional spiritual leaders that  
12 included the Tlingit perspective. They did speak  
13 about having Tlingit experts, cultural experts that  
14 they used to make these determinations. But in  
15 fact, it was unclear that Tlingit experts, and even  
16 more beyond that, not just Tlingit experts but  
17 people who are of this clan and who would have the  
18 knowledge about these objects being objects of  
19 cultural patrimony and sacred objects, and that's  
20 very important knowledge and data under NAGPRA that  
21 those, both tribal members and clan members, were  
22 not included in this, their committee of I believe  
23 they said 12 members. They also said that there  
24 were one, possibly two, members that were Tlingit  
25 and none of those were clan members that were

1 involved in adding data to this discussion.

2 So because of that, that's why I believe that  
3 all of the items on this list are, in fact, NAGPRA  
4 objects, objects of cultural patrimony and sacred  
5 objects, and that the museum has not proven that  
6 they have right of possession of these objects.

7 Thank you.

8 MERVIN WRIGHT, JR.: Alan.

9 ALAN GOODMAN: Thank you, Sonya. I also want  
10 to thank the University of Penn Museum for their  
11 generous offers of assistance in trying to come to  
12 a mutually beneficial solution to this – the  
13 question – the items in question. And their hard  
14 work in trying to make a good faith determination  
15 of whether or not these are items of cultural  
16 patrimony, sacred objects or, you know, objects  
17 that are subject to NAGPRA. There are a couple of  
18 items that do concern me in this case, and I think  
19 they've been referred to already. One, following  
20 Eric and Sonya, what I felt in the determination of  
21 cultural patrimony and whether or not these are  
22 sacred objects is that the University of  
23 Pennsylvania relied, I think excessively, on expert  
24 anthropological literature that didn't speak  
25 directly to the items in question and really

1       lacked, I think, any clear sort of reflection or  
2       weighting of indigenous perspectives. And  
3       especially when one is referring to items of  
4       cultural patrimony or sacred items it seems to me  
5       that one cannot apply a universal definition as was  
6       suggested. It's extremely hard to do so and that  
7       these are local indigenous concepts, and one must  
8       give proper weight to local and indigenous  
9       perspectives. And so that I agree with the other  
10      speakers – other members of the Review Committee  
11      that the preponderance of evidence suggests to me  
12      that all of the items are items of at least  
13      cultural patrimony if not sacred as well.

14           I'm also secondarily concerned with the lack  
15      of documentation of how the university received  
16      these items in 1924 and whether or not they – it  
17      was a voluntary and open and clear transfer of the  
18      said items. And I have not seen evidence in fact  
19      that persuades me that the transfer was voluntary  
20      and open. Thank you.

21           MERVIN WRIGHT, JR.: Okay. Are there any more  
22      comments? Adrian.

23           ADRIAN JOHN: Yes, Mr. Chairman. I as well  
24      agree with all my colleagues and, as well, thank  
25      all the participants in this case. But I agree

1 with Alan in his last remark there that there  
2 wasn't enough evidence to show I guess how they're  
3 obtained, but I know the UPM, the University of  
4 Pennsylvania lawyer had stated something about not  
5 all items belonging to – they were – you know,  
6 they're just titled under a collection but they are  
7 coming – they do come under a collection but there  
8 isn't enough evidence within the documentation to  
9 say that it all did not come from this particular  
10 area and this particular clan.

11 And in thinking of experts and the evidence, I  
12 do agree and look at being a person on the  
13 committee who is Native, spiritual, you know, the  
14 purpose of why I'm here. I do look at the evidence  
15 of the people bringing their oral history and the  
16 emotion that is behind it of how it does belong to  
17 them and how it affects them today and how it has  
18 affected them over the time that, you know, that  
19 it's been missing or that they haven't had such an  
20 object or items. And looking at that, you know,  
21 the people coming here are – the ones that the  
22 items reflect or in name belong to, as it is, that  
23 they're the – really the experts on those items.  
24 They are the evidence of its purpose, of its  
25 reality of why it's important for them, as well as

1       for a museum to have, because it's a living –  
2       they're living items, they're living entities  
3       within that clan or within that tribe.

4               And so when I look at that, I do agree that,  
5       you know, all the items on here have been  
6       demonstrated to show that they are cultural  
7       patrimony and that – and they fit within NAGPRA, as  
8       well as some of the items that weren't catalogued  
9       as having sacred object, you know, that they do  
10      have that title, as pertaining to the definition of  
11      the clan or the tribe.

12             And in saying that, you know, I feel that  
13      there isn't enough documentation to show that it  
14      was collected and guaranteed in the proper way  
15      where the full clan or the full tribe gave  
16      permission for its possession.

17             MERVIN WRIGHT, JR.: Thank you, Adrian.

18             Sonya.

19             SONYA ATALAY: I'd like to follow up for a  
20      moment on my colleague Dr. Alan Goodman's comments,  
21      and this is something that I had in my notes as  
22      well about the identity of the seller, which I  
23      thought that was not shown by the museum who that  
24      seller was, that that was Archie White. And in  
25      particular, I was struck by the fact that Shotridge

1       seemed, from all the evidence, to be because he was  
2       Tlingit that he was quite knowledgeable of the  
3       community. He knew people's names very well, and  
4       he was a very conscientious collector. In fact, we  
5       saw in the documents that he gathered a great  
6       amount of information about these objects in great  
7       detail. So it seemed curious and interesting to me  
8       that one item that was not listed, that he did not  
9       happen to list was the name of the seller. And it  
10      seems particular that UPenn in their practices,  
11      even these earlier practices of collecting, were  
12      very meticulous in many cases of having the name of  
13      the seller listed. So in this case, I was quite  
14      struck by the fact that a particular seller was not  
15      noted and listed anywhere and shown in this  
16      documentation.

17               So that very much stood out to me and was  
18      something that made me believe – question certainly  
19      both who the seller was, whether they had the  
20      proper authority, and in fact, whether this sale  
21      was made in open knowledge of everyone, as the  
22      museum said that it was. I – from this evidence, I  
23      wasn't at all sure that that was the case. In  
24      fact, I was – that more than anything convinced me  
25      that that was not the case.

1           And another point that I want to bring up  
2           about this is that I want to give a great deal of  
3           credit to UPenn. I read in their Exhibit A, their  
4           proposed projects for consideration, these  
5           collaborative projects that they proposed with the  
6           clan, and I'm speaking as someone who's recently  
7           written and soon to be published a book on  
8           collaborative archaeology and collaborative  
9           agreements. I've looked extensively at a range of  
10          collaborative agreements and working with  
11          communities, not just in archaeology, but in a  
12          range of social science fields and, in fact, public  
13          health. And these are some fantastic projects that  
14          they've proposed. It's clear that they've been  
15          very generous in thinking about how they might  
16          collaborate with the clan.

17          And what I would hope is that these  
18          collaborative agreements and these wonderful ideas  
19          and projects for working with the clan wouldn't be  
20          just dependent on the clan agreeing to right of  
21          possession going to the museum, and what I mean is  
22          that I hope that these projects, these  
23          collaborative projects that Penn has agreed to fund  
24          or proposed to fund would still be able to go  
25          forward, because I think there's a lot of - there's

1 a lot of great work that could be done here working  
2 collaboratively, and I hope that UPenn and the clan  
3 would agree to continue with these, because they  
4 are some wonderful projects. Thank you.

5 MERVIN WRIGHT, JR.: I'll just offer a comment  
6 here, you know. I appreciate the Review  
7 Committee's consideration of the information that  
8 was provided, and you know, I too was looking for  
9 that sale record, you know, to at least again find  
10 the signature, find the evidence that would show  
11 that there was some relation to, you know, the  
12 transfer of those items, the testimony that was  
13 provided by the Hoonah representatives certainly  
14 demonstrate the cultural patrimony.

15 With regard to the speculation that  
16 traditional law existed prior to 1924 is  
17 interesting at best, you know, to think that at  
18 some point in time all of a sudden our traditions  
19 came into existence, you know, doesn't reflect upon  
20 the existence of our traditions and the nature of  
21 our cultures as they evolved with time, you know.  
22 Reading the information on the Tlingit law again,  
23 you know, you see the term "time immemorial." We  
24 talk about the generations and generations that  
25 these traditions have been handed down and the way

1 and the manner in which it's held by the clan  
2 communally. And also to reflect upon Wednesday's  
3 testimony where it was asked with regard to the  
4 anthropological record that was utilized to make  
5 the determination of the status of these - this  
6 collection that it wasn't known, it wasn't made  
7 clear by UPM that there were Tlingit traditional  
8 experts available, and whether they were or not was  
9 not clearly evident based on that testimony. And  
10 with regard to the establishment and the  
11 determination of the right of possession by the  
12 UPM, I don't believe that it is clearly evident  
13 that they established that.

14 So from here, I know I talked with our DFO at  
15 the break, and we were considering the manner in  
16 which we move forward. I think the comments and  
17 discussion here this morning clearly show that we  
18 are ready to move forward with the decisions that  
19 are necessary for this dispute.

20 Are there any comments, DFO?

21 DAVID TARLER: Thank you, Mr. Chairman. During  
22 the discussion and the findings of fact in the  
23 first dispute this morning, you directly addressed  
24 the questions that had been presented to you and  
25 provided answers to those. I again want to remind

1 the committee that these questions merely serve as  
2 guidance. They do not necessarily have to be asked  
3 and answered. The questions go to issues of  
4 material fact between the parties. They are in two  
5 parts with respect to this dispute, which is  
6 somewhat more complex than the first one. As you  
7 correctly noted in the first dispute, there was an  
8 issue with respect to right of possession. In the  
9 present dispute that you're considering, the issues  
10 involved the identity of cultural items and in  
11 addition the issue of right of possession. But you  
12 are free to address your – the way that you make  
13 findings of fact and recommendations in any way you  
14 choose.

15 MERVIN WRIGHT, JR.: Given the statement here  
16 by our DFO with regard to the purpose of the  
17 questions, nature of the questions that are posed  
18 in our information as a guide, you know, we'll  
19 proceed forward with the interests of the committee  
20 and how we would like to proceed here. I think the  
21 – there are questions – the question here with  
22 regard to the drum as to whether it is a sacred  
23 object, I think you heard the comments here  
24 including that item as part of the collection that  
25 it would meet that requirement. Yes, Dan.

**REVIEW COMMITTEE MOTION**

DAN MONROE: Mr. Chair. I — let me offer a motion and let's see if it has legs. We may take a somewhat different tack than going through the individual questions. The motion would be this, that the — I move that all of the objects included in the Snail House Collection are considered by the Review Committee objects of cultural patrimony and sacred objects, and secondly move that as a result and based on the preponderance of the evidence, the Review Committee finds that UPM does not have a right of possession to those objects.

MERVIN WRIGHT, JR.: Is there a second?

SONYA ATALAY: I second.

MERVIN WRIGHT, JR.: Motion made and seconded that all of the items in the Snail House Collection as listed are items of cultural patrimony and, secondly, that the University of Pennsylvania Museum does not have the right of possession. Is there further discussion by the committee?

Hearing none, Mr. —

DAVID TARLER: May I just ask for a point of clarification when we talk about the items in the Snail House Collection, are we talking about the totality of the items in question with respect to

1           this dispute?

2           DAN MONROE: Yes, that's the intent of my  
3           motion.

4           DAVID TARLER: Thank you.

5           MERVIN WRIGHT, JR.: Okay. So we'll move for  
6           the question and we'll start again to my right with  
7           Mr. John. Signify by — signify agreeing to the  
8           motion by saying aye.

9           ADRIAN JOHN: Aye.

10          MERVIN WRIGHT, JR.: Mr. Hemenway.

11          ERIC HEMENWAY: Aye.

12          MERVIN WRIGHT, JR.: Mr. Monroe.

13          DAN MONROE: Aye.

14          MERVIN WRIGHT, JR.: Ms. Atalay.

15          SONYA ATALAY: Aye.

16          MERVIN WRIGHT, JR.: Mr. Goodman.

17          ALAN GOODMAN: Aye.

18          MERVIN WRIGHT, JR.: And I also concur and vote  
19          aye.

20          Those opposed, same sign? Abstentions?

21          The motion carries.

22          So I think at this point, I do not believe  
23          there's anything further that needs to be under  
24          consideration by the committee on this dispute.  
25          Mr. DFO — Mr. Tarler?

1           DAVID TARLER: I believe that we have all the  
2 information that we need in order to convey those  
3 findings of fact through publication in the Federal  
4 Register, and if we conclude this matter right now,  
5 may I request a very short break?

6           MERVIN WRIGHT, JR.: Okay. I will state that  
7 this matter is now concluded. The Review Committee  
8 has rendered its decision regarding the dispute of  
9 the Hoonah Indian Association and the Huna Totem  
10 Corporation – University of Pennsylvania Museum of  
11 Archaeology and Anthropology dispute.

12           We'll take a ten-minute break. Thank you.

13           **BREAK**

14           MERVIN WRIGHT, JR.: Okay. We would like to  
15 bring our meeting back to order, reconvene. We had  
16 on Wednesday's agenda a presentation scheduled  
17 which Ms. Miyamoto – Miyamoto had agreed to be  
18 rescheduled to this morning. And this presentation  
19 is entitled, "The Status of NAGPRA Compliance Among  
20 Museums with the Largest Collections of Native  
21 American Human Remains." And so at this time I'll  
22 turn it over to Ms. Miyamoto.

23           **PRESENTATION: THE STATUS OF NAGPRA COMPLIANCE AMONG**  
24           **MUSEUMS WITH THE LARGEST COLLECTIONS OF NATIVE**  
25           **AMERICAN HUMAN REMAINS**

**PRESENTATION - LAUREN MIYAMOTO**

LAUREN MIYAMOTO: Good morning, I'd first like to thank the Review Committee for letting me be here, and also the program. I had a great summer. I'm a second year law student at Georgetown, but just with that said, just a little bit about how I went about this process. I actually would like everyone to think about this in terms of the status of the NAGPRA process at these museums. I approached this from more of a research perspective than trying to do a legal or compliance sort of review of what was going on. The question I was asked at the beginning of the summer was pretty simple; it was simple but proved not to be. It was basically what's going on out there? The Act is now 20 and we're wondering where have people come with their human remains collections.

And so with that in mind, hopefully this - the goal of this report is to kind of - more to provide a snapshot on what's going on with the largest museums and identify some of the common concerns. Highlight best practices and just in general work towards a smoother, more efficient NAGPRA process for everybody involved.

So this report had two parts. The first part

1 looked at data from the National NAGPRA website and  
2 their databases, and the second part was a series  
3 of informal interviews with the institutions in my  
4 study population. Participation in these  
5 interviews, if we could call them that, were  
6 voluntary. Respondents were kept completely  
7 anonymous, and I'm pleased to say that 20 of the 32  
8 institutions that I spoke to responded.

9 So just a little bit about who I was looking  
10 at. I selected the study population based on size  
11 of the institution, and here I used institution to  
12 mean museums and also universities. It's basically  
13 any non-Federal institution that has to comply with  
14 NAGPRA. There was also a GAO report so we were  
15 trying not to double up here. And after sorting  
16 all of the institutions with at least one human  
17 remain, any institution with a thousand human  
18 remains kind of seemed like a natural sort of  
19 cutoff point. That left 32 inventories. There is  
20 one that was a joint inventory with Peabody, two  
21 Peabody institutions. They're - for the purposes  
22 of this report I considered them one. I only spoke  
23 to - I spoke to both institutions separately;  
24 however, they are considered one for purposes of  
25 the report. And 32 seemed like a workable number.

1 After looking over the entire collection and how  
2 much of the entire human remain collection out  
3 there, it also seemed like it was a pretty sizable  
4 portion of what's out there today. They represent  
5 66 percent of the total human remain collection  
6 reported. They also represent 59 percent of the  
7 total that was initially designated as culturally  
8 affiliated, and also 67 percent that was listed as  
9 culturally unidentifiable.

10 This is pretty much just a pretty sizable  
11 portion, so understanding what's going on there is  
12 going to kind of hopefully give us a good idea of  
13 what's going on generally. However, even within  
14 the study population, there's a pretty wide range  
15 of sizes in just institution diversity. So we can  
16 see that most of them had between 1,000 and 2,000,  
17 that seems to be a pretty common grouping. There  
18 were a few, 4 that had above 5,000. And in  
19 addition, they represent about half state and half  
20 private institutions, and they come from 23 states,  
21 and they were scattered across all regions. There  
22 really wasn't any sort of lumping in any one  
23 particular area. For those of you with copies of  
24 the report, the entire listing of the study  
25 population is at Appendix A, and they're listed by

1 total collection size.

2 So basically because the population was so  
3 dispersed in terms of just even looking at the – as  
4 I like to call them, the mega institutions, I  
5 tended to use mostly rate or percentage comparisons  
6 as opposed to just strict numbers. If you look at  
7 the smallest institution on my list, their total  
8 collection is smaller than the culturally  
9 affiliated numbers listed for the largest  
10 institution. So comparing pure size was just not  
11 going to work there, just to kind of give you an  
12 idea of what kind of colored how this was working.

13 So looking at the raw numbers from just the  
14 initial inventories, the first thing I looked at  
15 was just kind of what's out there. And honestly,  
16 but really not surprisingly, there was little  
17 correlation between the number of the collection,  
18 the percent – the size of the collection and the  
19 percent that was culturally unidentifiable and  
20 culturally unidentifiable.

21 Graph 2, which isn't up here, sorry – that you  
22 guys have in your reports kind of shows this. It's  
23 – unfortunately it's a little bit cut off, but the  
24 part that you guys have does show you that there  
25 really is no correlation. It's specific to the

1 institutions, the collections, and the populations  
2 that they have there. What is apparent, however,  
3 is that there is a high number that was listed as  
4 culturally unidentifiable. Twenty-seven of the 32  
5 institutions listed more than half as  
6 unidentifiable initially, and 7 had the entire  
7 collection of their human remains were – they were  
8 not able to identify. Another 11 had between 90  
9 and 100 percent of their collections as  
10 unidentifiable. So a large chunk of what we see is  
11 they're not able to identify.

12 So keeping in mind that a lot of these  
13 institutions do submit updated inventories and then  
14 also have subsequent duties under the NAGPRA  
15 process, I was also looking at what I called  
16 "adjusted totals," and these reflected revised  
17 inventories, as well as anything that was published  
18 in a notice. So this, basically we just took out  
19 anything where they've disposed of their NAGPRA  
20 duties, and to see kind of – to get a general idea  
21 of what they still probably have in their  
22 collection.

23 So the reflected changes come through two  
24 ways: the CUI that were subsequently resolved or  
25 the affiliated that were reported in notices. The

1       unidentifiable remains were resolved through three  
2       different methods: subsequent affiliations, that  
3       means they just updated their inventory; a  
4       disposition, through coming through the Review  
5       Committee; or other, sometimes they just - they  
6       don't list it. There was only three of those.

7               Overall adjustment came mostly from the  
8       reported culturally affiliated individuals, about  
9       93 percent of those that needed to be put in  
10      notices were by the time that I had done this study  
11      at the end of August, and that's what you see here.  
12      The numbers culturally affiliated with the  
13      percentage of notice. Now again, there isn't  
14      really a correlation between how many that they had  
15      and how, I guess you could call it, successful they  
16      were at completing this process. However,  
17      comparatively speaking we had 93 percent that were  
18      put into notices, while only 6.6 of the  
19      unaffiliated were later resolved.

20             So similarly institutions that saw a  
21      significant change in their adjusted totals were  
22      those with higher percentages, obviously, of  
23      culturally affiliated. Fourteen institutions  
24      completed all of their notices, and another 8 had  
25      over 90 percent completed. On the other hand,

1       there are 8 institutions, including all of the 7  
2       with 100 percent of their collection unidentifiable  
3       at the beginning, that didn't have any movement on  
4       the CUI. So that's what we see here. There, there  
5       is a little bit more of a correlation between  
6       having fewer initially and later resolving them.  
7       If we look to the rate of resolution – I'm sorry,  
8       the method of resolution it tends to be that they  
9       were subsequently affiliated. That was about 55  
10      percent, and about 45 percent were done through  
11      disposition. However, twice as many institutions  
12      subsequently affiliated and updated their  
13      inventories while fewer actually went through the  
14      disposition process. When disposition happened, it  
15      tended to be in larger portions.

16             And so they – this kind of brings me to the  
17      next step of the process, which was the interviews  
18      with the museums. The numbers were really fairly  
19      inconclusive. There was no correlation between the  
20      population size that they had and any sort of rate  
21      of identification, putting things in notices, and  
22      so it really seemed like I was going to need to  
23      talk to them and figure out, you know, maybe there  
24      are some other characteristics that numbers don't  
25      say.

1           So the major things that come up, the report  
2           itself actually places a lot of these factors under  
3           – and tries to link them to specific things that  
4           they might be causing. However, I think it's  
5           probably best to just kind of discuss them because  
6           they all kind of feed into and they all overlap and  
7           relate to each other. So I have them broken down  
8           here as more of kind of different types of factors.

9           So key things that came up when I was speaking  
10          to museums were the institutional factors. Now,  
11          while collection size did not have any sort of one-  
12          to-one correlation, everybody I talked to, all 20  
13          of them said and mentioned that having a collection  
14          size that was that large affected how they  
15          approached the process initially, as well as how  
16          they continued to approach the process. And  
17          usually that was a matter of – you know, it just  
18          seemed it's really daunting and we have a lot and  
19          not enough – and that brings me to point two –  
20          staff. Staff and time was a major concern for  
21          every institution. Those that seemed to have fewer  
22          concerns were those that had full-time or part-time  
23          designated NAGPRA staff. At some institutions it  
24          was – actually nobody knew where to direct me, so  
25          that was also an issue.

1           Many brought up financial concerns and that –  
2           initially and ongoing, that they didn't have enough  
3           funds to do what they thought was sufficient with  
4           their collections. And so a lot of the collections  
5           they have – they hadn't been able to do anything.  
6           They said that it was a lot of in the lead up to  
7           initially complying and they put a lot of effort  
8           in, and they were able to do it and, you know, it  
9           was kind of rally around that. And then as – in  
10          the last 15 or so years the financial concerns have  
11          kind of grown as they've lost staff.

12          And this kind of all ties back to point four,  
13          which is though a lot of – several institutions  
14          mentioned a sort of structural issues and just that  
15          they individually would like to move forward in the  
16          NAGPRA process and do more work and do more  
17          investigation and collaboration, but there was just  
18          a lack of support and resistance from the overall  
19          institution. So those were the main sort of, I  
20          guess, if you will, institutional structural  
21          factors that were mentioned by almost everybody.

22          There were several that mentioned their role  
23          as the – I guess they called it the state  
24          repository of human remains made it difficult  
25          because they just get a lot of the collection

1           dumped to them.

2           That kind of leads into the next one, which is  
3           aside from dealing within their own institutions, a  
4           lot of them went specifically to the collections  
5           and that the archaeological context was often very  
6           difficult for them to figure out. They – when I  
7           asked, one of the questions that I presented them  
8           was sort of when you try to make a designation of  
9           affiliation, what are you looking at, kind of what  
10          is your thought process, what are your standards?  
11          And frequently it was scientific certainty or no  
12          historically reliable evidence. And when pushed  
13          about this, it seems that they use a very sort of  
14          data and archaeological, I guess, research  
15          prospective from it, which in fact as we have  
16          looked at is not the actual standard, which is  
17          preponderance of the evidence and a little bit more  
18          likely than not lax standard. A lot of them tended  
19          to be very concerned about lack of clear and  
20          scientifically certain theories, in terms of either  
21          where the collection was from, they didn't have any  
22          data on their actual objects, or there were no  
23          theories for who was inhabiting the areas where  
24          they know that these objects came from at that  
25          particular time.

1           There was also a serious issue with a lack of  
2 data about the collections. There was a report a  
3 few years ago, I believe, to the Review Committee  
4 about who were the CUI, and that seemed to be, you  
5 know, paralleled with what I was getting from  
6 museums. They said that the biggest issue when  
7 they're trying to figure out, you know, who these  
8 remains might be is that there's no context for  
9 them. There's no context for them that they were  
10 given and there's just no context in terms of  
11 stuff. There's no donor history. They all come  
12 from, you know, certain periods of times when there  
13 were just massive amounts of digging and people  
14 were just giving things over to universities and  
15 museums. And so they said that there's just really  
16 no history and no way.

17           And they also said that in terms of  
18 consultations, because there's no history and  
19 there's no data, they don't know who to consult  
20 with. So a lot of them have some concerns about  
21 the consultation. There's two varying camps, I  
22 guess, some will consult widely. Others say they  
23 don't know who to consult with, so they have  
24 trouble figuring that out even before they get to  
25 the first - before they get to an affiliation step.

1           However, it's not all doom and gloom. There  
2           is – one of the major things that I think came from  
3           this is that everybody says that while they may not  
4           be moving and they're having trouble with, you  
5           know, the day to day, it does keep the dialogue  
6           open, and that's been one of the most successful  
7           things is that they've been able to really  
8           collaborate and – I'm sorry there's typos on there  
9           – but been able to jointly curate exhibits,  
10          extended loans. They've got ongoing digs, and that  
11          it's really opened the dialogue, and even if they  
12          aren't currently working to repatriate any remains  
13          that it's really got them talking and thinking.

14          Some other success factors are the ones –  
15          similar to what I said earlier, the ones that felt  
16          very successful were the ones that felt very  
17          supported internally. They were able to look to  
18          either their administration, whatever – whoever was  
19          overseeing their particular position, they felt  
20          that working on NAGPRA was not going to jeopardize  
21          their job. Along those lines, usually they were  
22          designated either full time or part time as the  
23          NAGPRA coordinator or the NAGPRA staff person. In  
24          some of the cases, it was kind of a tagged on title  
25          because this person had worked on it before. I had

1       that said several times, that you know, I've done  
2       this before at a different institution so they just  
3       kind of gave me this role when somebody else left,  
4       so they didn't get any extra time or any extra  
5       resources. And then also when there was a system,  
6       a clear system of sort of record keeping, so that  
7       they knew what sort of things had gone on with the  
8       NAGPRA subject collections before, that sort of an  
9       institutional memory were earmarked as sort of the  
10      major success factors.

11           And I guess just to kind of figure out,  
12      unfortunately I think because the surveys were  
13      anonymous it makes it difficult a little bit  
14      sometimes and a lot of it is very situational with  
15      each institution. The numbers really don't say  
16      very much and what – from speaking to them it  
17      really has to do with – a lot of it is the drive of  
18      the individual people at the museums and the  
19      institutions. I guess where this comes into play  
20      now is that a lot of them are very concerned with  
21      the effects of the new CUI rule, because I was  
22      speaking to them at the middle to end of the  
23      summer, many of them had not put into place or were  
24      still making up decisions on what they were going  
25      to do and how they were going to approach this.

1           And I think that hopefully this – while not  
2           conclusive in any way or groundbreaking, I think it  
3           kind of states the obvious in many senses – will  
4           hopefully be a tool that the committee as well as  
5           the program and institutions out there can kind of  
6           take as they need to move forward on their new  
7           duties on this under this and reopen and re-explore  
8           a lot of these collections that have just been  
9           sitting there kind of just dormant for a while. So  
10          I guess if there are any questions, I have –

11           MERVIN WRIGHT, JR.: Thank you.

12           **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

13           MERVIN WRIGHT, JR.: Are there any questions  
14           from the committee for Ms. Miyamoto?

15           SONYA ATALAY: I have a comment and a question.  
16           First, thank you, Ms. Miyamoto, for your work and  
17           for – this report is really helpful. I was taking  
18           notes about all these numbers. I think you also  
19           did a great job of presenting it in a really easy-  
20           to-follow way, so I appreciate that.

21           My question is – well, first it's just a  
22           question of process and possibility, and I'm  
23           wondering if – how you handled the – were there  
24           transcripts that you have of the interviews or were  
25           those recorded?

1           LAUREN MIYAMOTO: The interviews are not  
2 recorded. I do have my own notes, and they are –  
3 you know, I have my own documented notes that I was  
4 basically just taking. I didn't record them. And  
5 one of the things I think it was kind of a – I  
6 guess, a decision that I made was to – I felt that  
7 I would get better information and more detailed  
8 information if I went and provided institutions  
9 with, and the people I was speaking with, with more  
10 anonymity. And I think that I can, you know, type  
11 those up more in a more detailed manner, maybe get  
12 a little bit more specific, you know, keeping in  
13 mind that I would need to redact a lot of the  
14 information. But if that is something that the  
15 Review Committee would like to see, I can type up  
16 my notes more specifically to the interviews.

17           SONYA ATALAY: Well, I would be very interested  
18 in seeing those notes. I know because of  
19 confidentiality you would need to remove some  
20 information, but I think that would be just really  
21 helpful in terms of, I know you've done a very nice  
22 job of generalizing their comments, but I think  
23 some of – you know, seeing some of the specifics of  
24 the challenges that they're facing for me, at  
25 least, would be helpful to understand what we as

1 the Review Committee might do to kind of move this  
2 forward, and take some actions to assist these  
3 large museums with the challenges that they're  
4 having. So I would first like to request that.

5 And the second thing is that I'm wondering if  
6 you got a sense from the interview specifically  
7 that people were - you talked about how they wanted  
8 - had the feeling of wanting scientific certainty  
9 for a lot of these decisions. And I wondered if  
10 they talked a lot or at all about the kind of  
11 information and data that that they were receiving  
12 from consultation, if they talked about that being  
13 helpful, if there was any sense as to how many of  
14 these institutions had in fact undergone  
15 consultation. And I ask because you did say that  
16 they - that some of them didn't even know who to  
17 consult with and where to begin, so that gave me an  
18 indication that perhaps consultation hadn't  
19 occurred at all, and so I'm just wondering what  
20 role consultation did play, if you had a sense of  
21 that.

22 LAUREN MIYAMOTO: Okay. So there were several  
23 instances where they did mention that they didn't  
24 consult because they weren't sure who to consult  
25 with. They had no idea. There were no ideas of

1       where to go, who to talk to. In other cases, a lot  
2       of times they would mention that, you know,  
3       consultation, while helpful, was not necessarily –  
4       it didn't help them solidify anything because a lot  
5       of the questions and concerns that they had were  
6       just, you know, kind of mirrored in the  
7       consultation.

8               I didn't really get a general sense of the  
9       type of information that they were getting from the  
10      consultations. And in a lot of – in a lot of  
11      instances, it did sound like they weren't sure who  
12      to consult with. So they went to the tribes in  
13      their area or the tribes that they usually go to  
14      but a lot of times it was a matter of, you know, we  
15      just don't know where to go. And there were some  
16      instances where they did say, there were remarks  
17      made about that it was a little bit difficult to do  
18      consultations because the resources actually that  
19      the tribes have as well to do some of the  
20      discussions and the dialogue on, excuse me, on the  
21      dialogue on the remains was not as detailed or as  
22      specific as they would have liked. And so they did  
23      mention, you know, kind of a disparity in terms of  
24      which tribe and depending on which tribes they were  
25      working with.

1           SONYA ATALAY: And that actually is a follow-up  
2           to my next question, which is – so my understanding  
3           from reading the report that you referenced, “Who  
4           Are the CUI?” was that a large percentage of those  
5           did come from archaeological contexts and are  
6           remains that we do have information on, and so  
7           that’s what I’m trying to reconcile with what you  
8           said that many of them seemed to say that they  
9           didn’t – they were just kind of – they had no idea  
10          where they came from or that they didn’t have  
11          archaeological contexts. So could you explain that  
12          a little bit further?

13          LAUREN MIYAMOTO: Okay. So I think – first  
14          “Who Are the CUI?” study is looking at a very  
15          specific set of areas, and I know that the  
16          institutions that I did talk to that did overlap  
17          with the study population that was being looked at  
18          in the “Who Are the CUI?” did mention that this is  
19          a very difficult area and difficult region to deal  
20          with. I think it was, you know, kind of just in  
21          the center of the United States coming down this  
22          way. And that that’s a difficult area because they  
23          do have an archaeological context but what’s  
24          missing there is, as they’ve said, you know,  
25          there’s no real good theories about who was

1 actually inhabiting the areas at that time. So the  
2 problem is not where did it come from. So for  
3 those groups, which I don't really – off the top of  
4 my head I don't know how many overlap. I did get a  
5 few people saying that that, you know, it's a  
6 theory problem. It's a – you know, we don't have  
7 any – we know where it comes from. We know the  
8 state and maybe even what half of the state, but we  
9 don't know who was there at that particular time.

10 There were also people that said, you know, we  
11 can't narrow it down any further to a state and  
12 maybe it was dug up in the twenties. And so there  
13 was – there was a good handful of that as well.  
14 And I think that that really depended on the  
15 institution more so than I think the collection.  
16 It was more of a matter of, you know, nobody was  
17 keeping records when this stuff was donated. So  
18 the information about the actual collection was  
19 very limited. And that actually tended to be the  
20 universities that had a little bit more of that as  
21 an issue, because they were saying that these –  
22 they know – they might know who, you know, was –  
23 who donated it, and they said that the person who  
24 donated this was an individual who just kind of  
25 gave it over to us. And so that was usually the

1 universities.

2 SONYA ATALAY: So – and in terms of just  
3 following up on what you were saying about the not  
4 understanding because there's not a lot of –  
5 there's not theoretical proof, I guess, about who  
6 was in these, which people occupied these  
7 particular sites. I'm just curious if that's where  
8 you were getting a lot of the discussion over,  
9 there's not a lot of scientific certainty over  
10 those kinds of theories. Is that where the  
11 scientific certainty issue was coming in –

12 LAUREN MIYAMOTO: Yes, that –

13 SONYA ATALAY: – instead of preponderance of  
14 the evidence?

15 LAUREN MIYAMOTO: So that seemed to be the  
16 major – the major sticking point as, you know, I  
17 tried to ask kind of – I tried to be very general  
18 and let them lead the conversation. Usually it  
19 ended up going in two different directions. The  
20 institutional kind of things; you know, we just  
21 don't have the time, we don't have the people, we  
22 don't have the money. And then, you know, I was  
23 like, well, talk to me about what do you – what do  
24 you actually physically have there, and people  
25 would usually go into, you know, a lot of things

1       about we have this great collection but we just  
2       can't link it to anybody with any sort of  
3       scientific certainty. And you know, when pressed  
4       on it, not everybody could actually give me a  
5       definition of what they meant by scientific  
6       certainty, and you know, since I was not trying to  
7       label anybody as delinquent or anything under the  
8       Act, I didn't really bring up the fact that  
9       actually it's preponderance, you know, it's  
10      probably a lot less strict than scientific  
11      certainty is what you're looking for to even  
12      consult. But people did, you know, it was really  
13      kind of an issue of we just don't have enough  
14      evidence. And you know, not enough people believe  
15      in a certain theory for us to even move forward on  
16      it or things of that nature. And that was really  
17      about, you know, they don't know – it's like a  
18      time-depth issue and also, you know, location.

19               SONYA ATALAY: Thank you very much.

20               LAUREN MIYAMOTO: Thank you.

21               MERVIN WRIGHT, JR.: I just have a question. I  
22      notice that you have a "Draft" on this report.  
23      When do you anticipate concluding your report?

24               LAUREN MIYAMOTO: Well, I was actually – I can  
25      – soon. I was hoping to see some of your questions

1 and responses and to hopefully kind of incorporate  
2 that into the final copy. You know maybe a little  
3 bit more specific and detailed on the interviews  
4 and things of that nature. So I was hoping to  
5 incorporate comments and questions from today.

6 MERVIN WRIGHT, JR.: I just have – just a  
7 follow-up comment, you know, certainly appreciate  
8 your effort to research and undertake this study on  
9 the collections of human remains, but you know,  
10 comes the second part of the associated funerary  
11 objects and items of cultural patrimony and that  
12 section. Now I'm not suggesting that you try to  
13 include it here, but I think generally speaking,  
14 you know, this is the type of information that  
15 would be helpful, you know, for some of us that do  
16 try to look more on a global scale of where we  
17 really are and certainly the program can benefit  
18 from looking at some of this and to see how, you  
19 know, the facilitation of consultation,  
20 determinations can be made. And also in looking at  
21 the Smithsonian Institute, the institution itself,  
22 I mean, I know that they're separate from the  
23 NAGPRA law but you know, of and within itself it  
24 shouldn't think that, you know, people are not  
25 concerned about their collections in the nature

1           that you've reported here. That's all. Thank you.

2           Are there any other comments or questions from  
3 the committee?

4           Thank you very much.

5           LAUREN MIYAMOTO: Thank you.

6           MERVIN WRIGHT, JR.: Yes, Ms. Hutt.

7           SHERRY HUTT: First of all, I want to say  
8 Lauren came to us as an intern on her good graces,  
9 and so the study question that we gave her was  
10 initiated from the Review Committee, and so – her  
11 exceptional work and wonderful work we really very  
12 much appreciate.

13           And we also appreciate that we have received  
14 these assignments from you all. So – and as you  
15 indicate, Mr. Chairman, there may be additional  
16 studies that you'd like to see. We receive in the  
17 office wonderful students who would like to do  
18 work. We receive inquiries from professors who  
19 would like us to take some of their students under  
20 their wing and supervise them in various research,  
21 and that's where you've seen Ms. Miyamoto and  
22 Ms. Sally Butts' research. Her research, as well,  
23 emanated from an assignment from you all. So this  
24 is to say that with our enhanced data capacities,  
25 you know, the technology that we have that we

1        didn't have five years ago and the data from our  
2        files that have been entered into the electronic  
3        databases, we're able to do more sophisticated and  
4        accurate studies than we could do before. So since  
5        we have the capacity and we have the student  
6        volunteers, to the extent that the staff in the  
7        program have the time or the ability or energy in  
8        the extent of the day to supervise these students,  
9        we welcome your – and I think that's a function of  
10       the Review Committee. We welcome your assignments,  
11       not only as to the topic but as to the sort of  
12       research design. I know once before we had talked  
13       about a subcommittee that was going to assist in  
14       research design. And all of this leads toward  
15       creating products that go on the website. The  
16       students appreciate having their work published,  
17       and we appreciate the service to the constituents  
18       by virtue of the fact that that huge amount of data  
19       that we have in our databases is actually condensed  
20       and analyzed to answer discreet research questions  
21       and create products of benefit that anybody can  
22       reach on the website.

23        So we do hope that over time there will be  
24        more and more such reports as you have received at  
25        this Review Committee. So as you think of topics,

1       you can always send them to your DFO. You don't  
2       need to wait for the next Review Committee. If you  
3       want to be involved in the research design and the  
4       parameters or whatever, we welcome that as well.  
5       Thank you.

6               MERVIN WRIGHT, JR.: Okay. Where shall I  
7       start? No, I'm just kidding. No, certainly  
8       appreciate the effort, the intents of the program,  
9       you know, outreaching to students, you know, I  
10      think for those of us that are out there in the  
11      field and dealing with universities, state museums,  
12      I've certainly had my eye focused in certain areas  
13      when I'm looking at her list here but regardless of  
14      that, you know, certainly looking at the threshold  
15      of the museums from which you included in your  
16      study with respect to the folks out in California,  
17      you know, there are a number of museums and I don't  
18      think it was an effort to collectively put them  
19      together and categorize them to say, yes, we've got  
20      over the threshold you were looking for, or any  
21      other state for that matter. But you know, this is  
22      the beginning.

23              I think this is a very enlightening report  
24      that we can see, you know, some of the challenges  
25      that face the museums, some of the challenges that

1 face the implementation of NAGPRA. And I think us  
2 as a committee here it's enlightening to see these  
3 challenges identified because if we tend to hear  
4 these disputes possibly in the future, at least if  
5 they're included on this list and in this study, we  
6 will know that there are factors that contribute to  
7 a possible dispute, if it tends to come here. So I  
8 just want to say that much. Thank you.

9 Okay. Thank you, Ms. Miyamoto. At this time  
10 on the agenda we have public comment. Yesterday we  
11 had time at the conclusion of our meeting to have  
12 public comment and it is on the agenda. So we're  
13 going to open it up for the next time we have here  
14 to invite those of you here in the room if you wish  
15 to submit public comment for the record, you're  
16 welcome to come to the microphone and do so.

17 DAVID TARLER: And may I add, Mr. Chairman, in  
18 doing so, if they would identify themselves for the  
19 record when they make public comment.

20 **PUBLIC COMMENT**

21 **CLAYTON DUMONT**

22 CLAYTON DUMONT: Hello, I'm Clayton Dumont.  
23 I'm a member of the Klamath Tribes, and I'm a  
24 professor of sociology at San Francisco State. And  
25 I'll be really brief. I know you're all tired and

1           we're all tired.

2           Really what I wanted to do was to say thank  
3           you and offer a compliment for what I saw happen  
4           Wednesday morning, and then again Thursday, when  
5           you all were discussing the dispute procedure. I  
6           worry that because you all were down here, and I'm  
7           including the NAGPRA Program in this, in these  
8           chairs where there's very little room for error  
9           that you don't get the kind of vantage that we have  
10          back there. You know, it's - you all have to work  
11          at adhering to some fairly strict cultural  
12          protocols, ideals of objectivity, and an authority  
13          figure who is careful to allocate some balance in  
14          terms of time. And I think, you know, that  
15          Dr. Hutt very aptly pointed out that all of us who  
16          care deeply about this law are concerned that the  
17          courts continue to pay attention to what the  
18          committee is doing. And so those cultural  
19          protocols are important.

20          But it's interesting that, you know, in a  
21          social science kind of way the law, in as much as  
22          it's designed to make room for, empower the  
23          protocols of other cultures, puts you in an almost  
24          untenable situation, all right, because at the same  
25          time as you're trying so hard to maintain these

1 cultural protocols that are necessary to make the  
2 law work in this forum, you're also trying very  
3 hard to be respectful of these other cultural  
4 protocols. And from sitting in the back, it was  
5 fascinating for me. I'm sure it was difficult for  
6 you. And I just wanted to say, you know, how  
7 appreciative I was of the effort that everyone made  
8 to make that happen. In that kind of a situation  
9 it's inevitable I think that there are going to be  
10 some mistakes and, you know, I hope people aren't  
11 too hard on themselves. But I just - again, I  
12 wanted to say thank you to everybody, the committee  
13 as well. It was quite a thing to behold.

14 MERVIN WRIGHT, JR.: Thank you.

15 **BARBARA BROTHERTON**

16 BARBARA BROTHERTON: My name is Barbara  
17 Brotherton, and I have a comment about the  
18 composition of NAGPRA committees, and I realize  
19 that this is an important issue. I realized it  
20 today because at least two of the recommendations  
21 by committee members were based on a feeling that  
22 the dispute was somehow flawed because the museum  
23 did not have a Tlingit representative on their  
24 internal NAGPRA committee and so did not consider  
25 the line of evidence that would have come from the

1 tribal member. And so I realize that this is an  
2 important issue, and I bring this up because I  
3 don't think NAGPRA makes recommendations for the  
4 composition of committees, whether they be tribal  
5 or museum or agency, and that the - what is set  
6 forth is that consultation between the two yields  
7 the kinds of information that each of them need to  
8 make respectful and informed decisions. And so my  
9 concern is how we look at this idea of who should,  
10 in fact, sit on internal NAGPRA committees, and if  
11 museums should have tribal representation and there  
12 are whole lots of legal issues that come up as a  
13 result of that. And if tribal NAGPRA committee  
14 members - tribal NAGPRA committees then should also  
15 have museum members on them. And I would look to  
16 the committee to provide guidance if this is, in  
17 fact, an issue that is going to affect disputes and  
18 the outcome of disputes. Thank you.

19 MERVIN WRIGHT, JR.: Thank you.

20 Is there anybody else here that would like to  
21 make a public comment?

22 Seeing none, I guess at this point, you know,  
23 if there is any comments from the committee  
24 members, you're welcome at this time to make a  
25 statement.

1        **CLOSING COMMENTS**

2                DAN MONROE: Mr. Chair, I'd like to take just a  
3        few moments to make comments. This will be my last  
4        meeting as a member of the Review Committee, and my  
5        last involvement in this capacity for a period that  
6        goes back to before 1990, and I would just like to  
7        say a few things because my involvement in NAGPRA  
8        has been an extraordinary part of my life and one  
9        of the things that I count as most important in my  
10       life.

11               I'm first very proud of the American  
12        scientific and museum communities for playing a  
13        vital role in helping form and create and pass and  
14        implement NAGPRA as civil rights legislation aimed  
15        at correcting and ameliorating decades, in fact,  
16        hundreds of years of injustice. And I am proud of  
17        the fact that museums, scientific organizations,  
18        and other agencies have taken leadership in a bold  
19        way to help make NAGPRA a reality.

20               I think that regardless of the background of  
21        the individual members of this committee, looking  
22        back without exception, every single member of this  
23        committee in my experience has worked in good  
24        faith, has worked as a group, and has worked in an  
25        environment that's necessarily at times emotionally

1 charged and full of conflict. Given the diverse  
2 views and sense of ourselves and our place in the  
3 world represented by our different communities and  
4 by our professional affiliations, it's inevitable  
5 that that will sometimes be the case. And I would  
6 like to recognize and honor not only the Review  
7 Committee members but overwhelmingly all  
8 participants in NAGPRA, including each of you, for  
9 bringing a spirit that recognizes that we're all  
10 human beings, that we live in a fragile world, in a  
11 limitless universe, and that we share so much in  
12 common, and that we have differences but those  
13 differences can be addressed and can be in many  
14 ways worked out such that we live in this world  
15 with a spirit of respect and consideration for one  
16 another. And I want to particularly thank everyone  
17 who has made that possible.

18 The history of Native American experience is  
19 profoundly painful in many, many ways. And NAGPRA  
20 cannot correct or solve or address or fix or mend  
21 that history. But it can, moving forward, work  
22 together by bringing people with diverse views  
23 together to create a better world and one that  
24 respects and honors Native Americans and one that's  
25 based on consultation and exchange of ideas. And

1       so I am proud to have had a small opportunity to  
2       contribute to that effort.

3               I want to thank all of my Review Committee  
4       members today and all with whom I've served in the  
5       past, the NAGPRA staff, solicitors who work  
6       extraordinarily hard and often under difficult  
7       circumstances to make this law a reality and to  
8       make its purposes fulfilled. And I would just end  
9       by saying that it's been a profound honor to be  
10      able to contribute in some small way to the work  
11      that all of us are doing together. And I thank you  
12      for the opportunity to share in that experience.  
13      Thank you.

14             MERVIN WRIGHT, JR.: Thank you, Dan. Is there  
15      anybody else on the committee that would like to  
16      make a comment or statement at this time?

17             Seeing none, our DFO, is there anything you  
18      want to add at this point? Ms. Hutt.

19             SHERRY HUTT: On behalf of the program, I'd  
20      like to thank you all for the time that you give.  
21      You are all individually so busy and then you take  
22      your notebooks and go through them and read them  
23      and give such -- such effort and talent to your  
24      task, which is an enormous one, and we take your  
25      time. We take your time and impose on you in great

1       ways, and you never cease to give us and the NAGPRA  
2       communities what we need, which is your guidance.

3           And as I said the other day, these issues do  
4       not belong in court, and that's the only option if  
5       they didn't have the Review Committee, and the  
6       Congress was indeed wise to include Section 8 in  
7       the law. And the way in which you handle  
8       yourselves as, you know, you displayed in your  
9       deliberations today, gives profound wisdom to all  
10      of those who come before us.

11           I want to especially thank Dan Monroe and Alan  
12      Goodman who may not be with us in June. They will  
13      be with us in the larger sense, but not on the  
14      committee, unless Alan is renominated and does  
15      serve and is back in June. But your – you two have  
16      made your mark and you have done so in your  
17      intellect and your energy and your service and your  
18      comments that have really led the others to examine  
19      in various ways their comments and the materials  
20      they're presented, each of you give something that  
21      is of inestimatable value. It's fabulous. And you  
22      will be missed when we reconvene in June, you will  
23      – you will be missed. And we want very deeply to  
24      express our thanks to both of you.

25           MERVIN WRIGHT, JR.: Before we close I would

1       just like to also on behalf of the committee offer  
2       our appreciation to the program, the National  
3       Program and the staff, as well as the – and I think  
4       especially the planning staff for the symposium for  
5       what they were able to accomplish on Monday and  
6       Tuesday. And you know, certainly NAGPRA has  
7       touched, you know, our communities in one manner or  
8       another, and I think as we move forward from here  
9       and at least in the manner that the issues were  
10      presented during the symposium gives us a sense of  
11      – like an enhanced awareness of where are those  
12      difficult issues, where are they located and how do  
13      we go about dealing with it.

14             And for us as people, you know, that's all we  
15      are, just people. And for us as individuals, we  
16      are just – just that one person, and as my  
17      colleague Dan Monroe has stated, you know, if  
18      there's any way possible that we can, as an  
19      individual, make a difference with what we're  
20      trying to accomplish on behalf of our community, on  
21      behalf of our constituency, whatever that might be,  
22      you know, we look up into the heavens at night, you  
23      know, at least for us, you know, we look at the  
24      Milky Way and recognize everything that has gone  
25      before us from the beginning of time and

1 recognizing that this is bigger than all of us,  
2 individually and even collectively.

3 And so knowing that this is – you know, what  
4 we had before us this legislation, these words that  
5 have been adopted by our governing authority here  
6 in this city of Washington, DC. That is what we  
7 have as a guide to accomplish the generations of  
8 responsibility that we still hold. And it is my  
9 hope that as we move forward in working with the  
10 museum communities, the scientific communities, the  
11 representatives of this institution, our Federal  
12 government, that we can take forward that  
13 responsibility of understanding and that if it is  
14 possible to achieve the success that we aim toward,  
15 you know, all that much better.

16 So with that, and just as I had concluded the  
17 meeting yesterday, I had asked Mr. John if he would  
18 open up our meeting today with a prayer and I would  
19 like to ask him again if he could close our meeting  
20 and close this session of the Review Committee  
21 meeting here in Washington, DC.

22 **TRADITIONAL CLOSING**

23 ADRIAN JOHN: (Native American language.)

24 Just to translate, I just said it was my  
25 responsibility to close the session and that our

1 process here is finished today, and that we ask –  
2 we thank the Creator first for the people that are  
3 here and that they all are well and continue to be  
4 well. And give thanks to the Creator that he  
5 allows us to walk on this earth and that he reminds  
6 us or helps us to be kind to each other and to keep  
7 that centered in our mind. And that also that we  
8 ask him to make sure that we're well on our  
9 journeys home, (Native American language) means  
10 like "through the woods," so wherever you end up I  
11 hope that you are well and that you have a safe  
12 journey. (Native American language.)

13 MERVIN WRIGHT, JR.: Thank you, Adrian.

14 Our meeting here at the Review Committee is  
15 hereby adjourned.

16 **MEETING ADJOURNED**